

IN THE CIRCUIT COURT OF THE 12TH  
JUDICIAL CIRCUIT IN AND FOR  
SARASOTA COUNTY, FLORIDA

CASE NUMBER:

DIVISION:

VADIM KUSHNIR and ELINA DUDKINA,  
individually and on behalf of their children,  
WILLIAM KUSHNIR, a minor, and  
ADELE KUSHNIR, a minor,

Plaintiffs,

v.

SALLY M. SMITH, M.D., CATHERINE A.  
MAJOR, M.D., LUIS F. RODRIGUEZ, M.D.,  
PETER HUSZAR, M.D., GEORGE JALLO, M.D.,  
THOMAS J. GELLER, M.D., LADONNA K.  
BINGHAM, M.D., ELLIOT MELENDEZ, M.D.,  
JAVIER F. QUINTANA, M.D., NICOLE  
CHANDLER, M.D., NICK W. PARILLA, M.D.,  
CHARLES D. ELDRIDGE IV, M.D., LINDSEY  
KREBS, ELIZABETH A. SUMNER,  
CATHERINE BEDY, MICHAEL GEORGE, M.D.,  
ROBIN E. OSBORN, D.O., JOHNS HOPKINS  
ALL CHILDREN'S HOSPITAL, INC., JOHNS  
HOPKINS HEALTH SYSTEM CORPORATION,  
INC., THE JOHNS HOPKINS UNIVERSITY,  
INC., JOHNS HOPKINS MEDICINE, ALL  
CHILDREN'S SPECIALITY PHYSICIANS d/b/a  
PEDIATRIC PHYSICIAN SERVICES, INC., ALL  
CHILDREN'S HEALTH SYSTEM, INC., PORT  
CHARLOTTE HMA, LLC d/b/a BAYFRONT  
HEALTH PORT CHARLOTTE, TAMPA BAY  
RADIOLOGY ASSOCIATES, P.A., and  
SUNCOAST CENTER, INC.,

Defendants.

---

**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiffs, VADIM KUSHNIR and ELINA DUDKINA, individually and on behalf of their  
children, WILLIAM KUSHNIR, a minor, and ADELE KUSHNIR, a minor, by and through their

undersigned attorneys, hereby sue Defendants, SALLY M. SMITH, M.D., CATHERINE A. MAJOR, M.D., LUIS F. RODRIGUEZ, M.D., PETER HUSZAR, M.D., GEORGE JALLO, M.D., THOMAS J. GELLER, M.D., LADONNA K. BINGHAM, M.D., ELLIOT MELENDEZ, M.D., JAVIER F. QUINTANA, M.D., NICOLE CHANDLER, M.D., NICK W. PARILLA, M.D., CHARLES D. ELDRIDGE IV, M.D., LINDSEY KREBS, ELIZABETH A. SUMNER, CATHERINE BEDY, MICHAEL GEORGE, M.D., ROBIN E. OSBORN, D.O., JOHNS HOPKINS ALL CHILDREN'S HOSPITAL, INC., JOHNS HOPKINS HEALTH SYSTEM CORPORATION, INC., THE JOHNS HOPKINS UNIVERSITY, INC., JOHNS HOPKINS MEDICINE, ALL CHILDREN'S SPECIALITY PHYSICIANS d/b/a PEDIATRIC PHYSICIAN SERVICES, INC., ALL CHILDREN'S HEALTH SYSTEM, INC., PORT CHARLOTTE HMA, LLC d/b/a BAYFRONT HEALTH PORT CHARLOTTE, TAMPA BAY RADIOLOGY ASSOCIATES, P.A., and SUNCOAST CENTER, INC., and state:

### **PARTIES**

1. Plaintiff, William Kushnir ("William"), a minor, at all times material hereto, was a resident of North Port, Florida, and brings this action through his parents and legal guardians, Vadim Kushnir and Elina Dudkina. At all times material hereto, William was the minor son of Vadim Kushnir and Elina Dudkina, his father and mother.

2. Plaintiff, Adele Kushnir ("Adele"), a minor, at all times material hereto, was a resident of North Port, Florida, and brings this action through her parents and legal guardians, Vadim Kushnir and Elina Dudkina. At all times material hereto, Adele was the minor daughter of Vadim Kushnir and Elina Dudkina, her father and mother.

3. Plaintiff, Vadim Kushnir ("Vadim"), at all times material hereto, was a resident of North Port, Florida and was the father of William and Elina and the husband of Elina Dudkina.

4. Plaintiff, Elina Dudkina (“Elina”), at all times material hereto, was a resident of North Port, Florida and was the mother of William and Elina and the wife of Vadim.

5. Defendant, Sally M. Smith, M.D. (“Smith”), at all times material hereto, was a pediatrician employed by Suncoast Center, Inc. and Johns Hopkins All Children’s Hospital, Inc. at various times, and was a resident of Pinellas County, Florida. Smith can be served in Florida at her residence at 1080 16th Avenue North, St. Petersburg, Florida 33704, or at her place of employment at Suncoast Center, Inc. at 2855 5th Avenue North, St. Petersburg, Florida 33713.

6. Defendant, Suncoast Center, Inc. (“Suncoast”), at all times material hereto, was an agency under contract with the State of Florida, with its principal place of business at 4024 Central Avenue, St. Petersburg, Florida 33711. Suncoast can be served in Florida through its registered agent, Barbara E. Daire, at 4024 Central Avenue, St. Petersburg, Florida 33711.

7. Defendant, Robin E. Osborn, D.O. (“Dr. Osborn”), at all times material hereto, was a radiologist employed by Tampa Bay Radiology Associates, P.A. Dr. Osborn can be served at his place of employment at Tampa Bay Radiology Associates, P.A., 100 South Ashley Drive, Suite 1500, Tampa, FL 33602.

8. Defendant, Tampa Bay Radiology Associates, P.A. (“Tampa Bay Radiology”), at all times material hereto, was under contract with Bayfront Health Port Charlotte for radiology services, with its principal place of business at 7700 West Sunrise Boulevard, Mailstop PL-6, Plantation, FL 33322. Tampa Bay Radiology can be served in Florida through its registered agent, Corporation Service Company, 1201 Hays Street, Tallahassee, FL 32301.

9. Defendant, Johns Hopkins All Children’s Hospital, Inc., (“JHACH”), at all times material hereto, was and is a Florida not-for-profit corporation engaged in the business of providing medical health services with its primary place of business at 501 6<sup>th</sup> Avenue South, St. Petersburg, Florida 33701. At all times material hereto, JHACH was acting as a private entity

under contract with the State of Florida and/or local municipalities, including the County of Sarasota. JHACH can be served in Florida through its registered agent, Susan Tuite, at 501 6<sup>th</sup> Avenue South, Legal, 6500002700, St. Petersburg, Florida 33701.

10. At all times material hereto, JHACH was a fully integrated member (i.e., a subsidiary and/or wholly owned entity) of Defendant Johns Hopkins Health System Corporation (“JHHSC”), a foreign not-for-profit corporation registered and doing business in the State of Florida, with sufficient contacts and an ongoing presence in the State of Florida such that this Court has jurisdiction over JHHSC. JHHSC can be served in Florida through its registered agent, Susan Tuite, at 501 6<sup>th</sup> Avenue South, St. Petersburg, Florida 33701. Further, JHHSC committed tortious acts within the State by its negligent supervision, management, and ratification of JHACH, as pled *infra*, the direct and proximate result of which was grievous injuries to four citizens of the State of Florida. JHHSC, by virtue of its direct, extended and systematic contacts with the State of Florida to manage its wholly owned subsidiary, JHACH, and its acts of negligence within the State of Florida in failing to properly manage its wholly owned subsidiary subjected itself to the jurisdiction of the Courts of the Great State of Florida.

11. At all times material hereto, JHHSC and Defendant, The Johns Hopkins University, Inc. (“JHU”), conducted business in the State of Florida through a foreign trade name, Johns Hopkins Medicine (“JHM”), which was and is wholly and legally owned by JHHSC and JHU. At all times material hereto, JHU, a foreign not-for-profit corporation registered and doing business in the State of Florida, with sufficient contacts and an ongoing presence in the State of Florida such that this Court has jurisdiction over JHU, can be served in Florida through its registered agent, C T Corporation System, 1200 South Pine Island Road, Plantation, FL 33324. JHU committed tortious acts within the State by its negligent supervision, management, and ratification of JHACH, as pled *infra*, the direct and proximate result of which was grievous injuries to four citizens of the

State of Florida. JHU, by virtue of its direct, extended and systematic contacts with the State of Florida to properly manage its medical programs at JHACH, and its acts of negligence within the State of Florida in failing to properly manage its medical programs subjected itself to the jurisdiction of the Courts of the Great State of Florida.

12. Defendant, All Children's Specialty Physicians d/b/a Pediatric Physician Services, Inc. ("Pediatric Physician Services"), at all times material hereto, was and is a Florida not-for-profit corporation engaged in the business of providing medical health services with its primary place of business at 501 6<sup>th</sup> Avenue South, St. Petersburg, Florida 33701. At all times material hereto, Pediatric Physician Services was acting as a private entity, and can be served in Florida through its registered agent, Kevin Crews, at 501 6<sup>th</sup> Avenue South, Legal, 6500002700, St. Petersburg, Florida 33701.

13. Defendant, All Children's Health System, Inc. ("All Children's Health System"), at all times material hereto, was and is a Florida not-for-profit corporation engaged in the business of providing medical health services with its primary place of business at 501 6<sup>th</sup> Avenue South, St. Petersburg, Florida 33701. At all times material hereto, All Children's Health System was acting as a private entity and can be served in Florida through its registered agent, Kevin Crews, at 501 6<sup>th</sup> Avenue South, Legal, 6500002700, St. Petersburg, Florida 33701.

14. Defendants, Catherine A. Major, M.D. ("Dr. Major"), Luis F. Rodriguez, M.D. ("Dr. Rodriguez"), Peter Huszar, M.D. ("Dr. Huszar"), George Jallo, M.D. ("Dr. Jallo"), Thomas J. Geller, M.D. ("Dr. Geller"), Ladonna K. Bingham, M.D. ("Dr. Bingham"), Elliot Melendez, M.D. ("Dr. Melendez"), Javier F. Quintana, M.D. ("Dr. Quintana"), Nicole Chandler, M.D. ("Dr. Chandler"), Nick W. Parilla, M.D. ("Dr. Parilla"), Charles D. Eldridge Iv, M.D. ("Dr. Eldridge"), Lindsey Krebs ("Krebs"), Elizabeth A. Sumner ("Sumner"), and Catherine Bedy ("Bedy"), at all times material hereto, were employees JHACH, JHHSC, JHU, JHM, Pediatric Physician Services,

and/or All Children's Health System, Inc. in St. Petersburg, Florida, and can be served in Florida through their employment at all times material hereto with the aforementioned entities at the aforementioned addresses.

15. At all times material hereto, Smith was an employee of JHACH, or actual or apparent agent in that JHACH held Smith out to the Kushnirs as their agent and/or tolerated or permitted Smith to hold herself out as JHACH's agent, and consequently JHACH is vicariously responsible for the acts of Smith as alleged herein.

16. Specifically, JHACH allowed Smith as an "active staff member" to freely enter into the facility and into William's room to offer care, treatment and medical opinions. JHACH also granted Smith "computerized provider order entry" privileges such that Smith could—and did—not only order care and treatment for William verbally, but also through his electronic health record.

17. Additionally, upon their first meeting, Smith, without introducing or identifying herself, walked into William's room exactly as every other hospital physician attending to William and demanded that Vadim and Elina provide their son's medical history. The parents complied, and even when Smith evaluated William and took pictures of his body, neither Smith nor JHACH corrected the misapprehension that Smith was a JHACH physician.

18. Additionally, based upon information and belief, Smith was in a direct or indirect contractual relationship with JHACH whereby Smith taught young Johns Hopkins physicians in the clinical identification and treatment of child abuse as a part of JHM's residency program at JHACH, and the resident physicians, as well as their more experienced counterparts, freely consulted Smith and were instructed to do so. Smith's extensive involvement in JHM's clinical trainings, her availability and willingness to provide consultations, her service on JHACH's various medical committees, and, based upon information and belief, her personal friendship with

JHACH physicians such as Catherine Major, M.D. created the environment and appearance that Smith was just another hospital pediatrician.

19. Vadim and Elina justifiably relied upon Smith's actual or apparent authority just as if JHACH had expressly conferred that authority to Smith and communicated same to Plaintiffs. As such, JHACH is vicariously liable for the acts of Smith.

20. Defendant, Port Charlotte HMA, LLC d/b/a Bayfront Health Port Charlotte ("Bayfront Health"), at all times material hereto, was and is a Florida limited liability corporation engaged in the business of providing medical health services with its place of business at 2500 Harbor Boulevard, Port Charlotte, FL 33952. At all times material hereto, Bayfront Health was acting as a private entity, and can be served in Florida through its registered agent, Corporation Service Company, 1201 Hays Street, Tallahassee, FL 32301.

21. Defendant, Michael George, M.D., at all times material hereto, was an employee or actual apparent of Bayfront Health in Port Charlotte, Florida, and can be served in Florida through his employment at Bayfront Health at the aforementioned address, or through his employment at Florida Regional Emergency Associates – PG ER at 809 East Marion Avenue, Punta Gorda, FL 33950.

#### **VENUE**

22. This is an action for damages in excess of \$15,000.00, exclusive of interest, fees and costs.

23. The acts and/or omissions giving rise to at least two causes of action accrued in Sarasota County, Florida. Therefore, pursuant to Fla. Stat. § 47.011, jurisdiction and venue are appropriate in the Twelfth Judicial Circuit Court, in and for Sarasota County. Plaintiff brings this action pursuant to state common law tort actions. As such, and due to its volatile nature, this case has been the subject of repeated and continuous media coverage throughout the State of Florida

and each and every County therein, through local press coverage, national press syndication, and via social media distribution through sites such as Facebook. The level of coverage makes the choice of a particular County venue irrelevant insofar as there is no discernable difference in the degree of media coverage within any particular geographical area where this action could be properly brought.

### **BACKGROUND**

24. On July 13, 2018, William was born after complicated labor and delivery. He emerged with the umbilical cord wrapped around his neck, and physical and internal injuries consistent with a complicated birth, including petechiae, bruising, a blueish face, fractured ribs, and brain hemorrhaging. Additionally, William required resuscitation.

25. After discharge, and following the advice of the birthing hospital, Vadim and Elina brought William to his private pediatrician, Dr. Beverly Anarumo (“Dr. Anarumo”), for three separate follow-up appointments in July and August of 2018. William appeared to be recovering from the traumatic birth.

26. On the morning of August 16, 2018, William began vomiting and exhibiting a small shaking or jerking movement around the time of a feeding. Vadim called Dr. Anarumo, who advised the family to bring William to the pediatrician’s office. Upon examination, Dr. Anarumo discovered that William appeared to be having seizures and called for emergency medical services, who then transported William to Bayfront Health.

27. Prior to William’s arrival at Bayfront Health, Dr. Anarumo spoke with Dr. George of the Bayfront Health Emergency Room. Dr. Anarumo advised Dr. George of William’s history, including his seizures and a mark on his arm, which Elina had pointed out to Dr. Anarumo and which Dr. Anarumo believed was the result of a car seatbelt.



28. As Circuit Judge Rochelle T. Curley (“Judge Curley”) noted, “Dr. Aranumo testified that it was normal that parents would not know that the tremors or shaking may be a seizure.... The pediatrician did not deem the seizures life-threatening but did find them serious enough to notify emergency medical service. It was not unreasonable or negligent that the parents sought the advice of their pediatrician before going to the emergency room.”

29. Notwithstanding Dr. Anarumo’s and Dr. George’s conversation, the birthing complications, or the lack of any physical signs of injury to William’s head, the providers at Bayfront Health, specifically Drs. George and Osborn, had decided within an hour of William’s arrival that he had suffered “non accidental trauma” and “blunt force trauma”—euphemisms for child abuse. The Department of Children and Families (“DCF”) Abuse Hotline was contacted with the allegations of “blunt force trauma” and “unexplained bruising but details are not known”—the very same bruising that Dr. Anarumo had discussed with Dr. George not more than several hours prior.

30. William was then transported from Bayfront Hospital to the JHACH Emergency Center, and within 15 minutes of his arrival, the JHACH providers had decided that William had suffered not only a “head injury”, but now also a “skull fracture”, “unattended medical/physical problems”, and “sexual abuse” evidenced by a “known traumatic injury from outlying facility”.

31. Despite the Hospital’s own exams and imaging studies revealing that William’s injuries were consistent with the birthing complications, JHACH physicians and other healthcare providers persisted with their false abuse allegations.

32. On August 18, 2018, Smith clinically evaluated William, and a week later, she authored an 8-page report riddled with inaccuracies, misrepresentations, false information, and speculative and medically unsound theories of abuse, some of which were borrowed from Bayfront Health’s and JHACH’s records.

33. Based upon the misrepresentations and bad faith allegations of the Defendants, both William and Adele were taken into protective custody on the evening of August 29, 2018.

34. Based upon the same misrepresentations and bad faith allegations of the Defendants, William and Adele were both sheltered under the supervision of DCF on or about August 31, 2018, and Vadim and Elina would only be allowed supervised contact with their two children.

35. In an attempt to regain custody of their children, Vadim and Elina retained experts such as Board-Certified Radiologist Dr. Susan A. Gootnick (“Dr. Gootnick”) to conduct a comprehensive review of William’s records and provide independent medical opinions to the dependency court.

36. On December 7, 2018, as a result of the misrepresentations and bad faith allegations of the Defendants, the dependency court heard arguments on rendering William and Adele dependent and placing both children in the foster care system. Drs. Aranumo, Osborn, Smith, and Gootnick all gave sworn testimony on the issues and the causes of William’s injuries.

37. Drs. Smith and Osborn persisted with their false allegations and misrepresentations, and presented testimony completely divorced from William’s medical records, the facts known to both doctors at the time, medical literature and research, and the necessary degree of medical certainty, at times changing their stories to portray Vadim and Elina in the worst possible light.

38. Consequently, Judge Curley issued a scathing opinion in favor of Vadim and Elina, ordering an immediate return of William and Adele to the parents’ care and custody and admonishing Drs. Smith and Osborn for their unsubstantiated, highly speculative, and medically (and physically) unsound theories of abuse. Judge Curley wrote, in part:

- a. “It was documented in the pediatrician’s records that there was a small linear mark on the child’s arm. No other injuries were noted. Dr. Aranumo testified that she

would not have noticed the mark had it not been pointed out by the mother. The pediatrician believed the mark could have been caused by a seatbelt in the car seat and advised the mother accordingly. The Court finds her explanation is reasonable after reviewing the photographic evidence of a red linear mark on the arm. There was insufficient evidence presented by the State that would show that the mark on the arm was a result of being thrown or grasped or blunt force trauma.”

- b. “Additional injuries to the child include two healing rib fractures that may have occurred during birth. It is undisputed that the rib fractures were in the healing stages of about three to four weeks which is consistent with the date of birth. Rib fractures may occur at birth, may be undetected and heal on their own according to the State’s witness.”
- c. “Given the fact that the child was thirty-three days old and the birth was complicated or traumatic, it would be important for the witnesses who are expressing their medical opinions to consider all medical records, including the birth records. The medical records disclosed injuries to the child including bruising to the child’s face and petechiae to the right and left shoulders. His brain was deprived of oxygen for a period of time due to the umbilical cord being tightly wrapped around his neck.”
- d. “Dr. Osborne denied that the child would be hitting or suffering impact during delivery. He testified that the baby would ‘fall out’ if a precipitous birth occurred in this case. His testimony is not corroborated by the medical records. The medical records confirm that the child suffered facial bruising, some injuries to the left and right shoulder and oxygen deprivation. Furthermore, it was undisputed that the child’s oxygen was cut off for a period of time because the umbilical cord was

tightly wrapped around his neck. These facts were unknown to Dr. Osborne when he opined that the brain injury was a result of shaken baby or blunt force trauma. Dr. Osborne was unaware of the child's injuries prior to testifying because he did not review all of the medical records.”

- e. “There was insufficient evidence to show that results of the brain scans were a result of abuse or neglect and not as a result of a ‘re-bleed.’ Dr. Osborne initially testified and agreed with the parents’ position that the images on the scan were consistent with a ‘re-bleed.’ He was very definitive when he explained the differences between the darker imaging on the scan and the lighter imaging. His explanation of the possible pooling of fluid on the brain appeared plausible. At that point, he and Dr. Smith’s testimony were not consistent. When he was questioned by counsel for the guardian, he changed his testimony to deny a ‘re-bleed’ occurred.”

39. Based upon the misrepresentations and bad faith allegations of the Defendants, William and Adele were removed from their parents’ care and custody for approximately three months, William’s condition worsened at the hands of Bayfront Health, JHACH, and their involved physicians and other healthcare providers, and Vadim and Elina were subjected to the Defendants’ physical abuse, sexual abuse, and medical neglect misrepresentations and allegations.

40. As Judge Curley’s opinion and the facts set forth above reveal, the Defendants acted in bad faith, with malicious purpose and/or in a manner exhibiting wanton and willful disregard of human rights and safety.

**COUNT I**  
**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST**  
**SALLY M. SMITH, M.D. FOR THE CARE OF WILLIAM KUSHNIR**

- 41. Plaintiffs re-aver Paragraphs 1-40.

42. Upon her assignment by Suncoast Center to handle William's case and her consultations with JHACH physicians and other healthcare providers, Smith assumed and accepted a duty of care towards William, and owed William such duty of care.

43. Smith breached her duty of care by ignoring, disregarding, and/or refusing to accept the medical opinions and diagnoses of specialists in the fields of Neurology, Neurosurgery, and Radiology, and instead of investigating or allowing an investigation of the causes of William's injuries, Smith instead perpetuated medically unsound theories of physical abuse, falsely and recklessly accused Vadim and Elina of such abuse, and provided medical diagnoses and opinions that were not grounded in medical research, fact or reality.

44. Smith also breached her duty of care by failing to follow up on the MRI she requested from JHACH providers and instead widely perpetuated her abuse theories, diagnoses, and opinions, none of which were within a reasonable degree of medical certainty.

45. Smith further breached her duty of care by providing an inadequately researched report and unsubstantiated and patently false testimony to the dependency court after failing to confer with William's providers and conduct proper medical research, which led directly to the unnecessary removal of William and Adele from their parents' care and custody.

46. Smith's breach proximately caused William to suffer unnecessarily as the causes of his injuries went unexplored and untreated, his condition worsened, and he was removed from his parents' care and custody during a crucial period of his development, from August to December of 2018.

47. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

48. WHEREFORE, Plaintiffs demand judgment against Defendant, Sally M. Smith, M.D. as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT II**  
**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST**  
**JOHNS HOPKINS ALL CHILDREN'S HOSPITAL, INC., JOHNS HOPKINS HEALTH**  
**SYSTEM CORPORATION, INC., THE JOHNS HOPKINS UNIVERSITY, INC., JOHNS**  
**HOPKINS MEDICINE, ALL CHILDREN'S SPECIALITY PHYSICIANS d/b/a**  
**PEDIATRIC PHYSICIAN SERVICES, INC., AND ALL CHILDREN'S HEALTH**  
**SYSTEM, INC., FOR THE CARE OF WILLIAM KUSHNIR**

49. Plaintiffs re-aver Paragraphs 1-40.

50. Pursuant to Chapter 766 of the Florida Statutes, upon William's admission at JHACH, the John Hopkins entities, JHACH, JHHSC, JHU, JHM, Pediatric Physician Services, All Children's Health System, and their involved physicians and other healthcare providers, owed a duty of care to William.

51. The Johns Hopkins entities breached their duty of care by failing to adequately investigate the causes of William's injuries, by not ruling out organic causes of his injuries, by

allowing its physicians and other healthcare providers to defer to and consult with Smith on areas not within her specialty or expertise, by affirmatively allowing Smith to make testing and treatment recommendations and orders in areas not within her specialty, by failing to develop coherent and proper physician and nursing care plans for William, causing lesions and bruising on William's body, failing to perform proper diagnostic and other testing, failing to make decisions based on William's medical history and present condition, encouraging and/or perpetuating false allegations of abuse such as physical abuse, nonaccidental trauma, sexual abuse, skull fracture, medical neglect, and retinal detachment, failing to properly document William's medical and social history and the birthing complications, failing to follow up on the non-accidental trauma workup recommended internally and by outside providers, failing to follow up on the MRI recommended internally by Smith and others, by basing medical treatment on unsound theories of abuse not within a reasonable degree of medical certainty, failing to involve the proper specialists and tests to determine the true cause of William's injuries, and instead deferring the coordination of care to its staff physician Sally M. Smith, a pediatrician wholly unqualified to diagnose and treat such a complex condition, ultimately resulting in the coordinated and systemic failure to identify organic etiology of William's condition.

52. The Johns Hopkins entities' breach proximately caused William to suffer unnecessarily as the causes of his injuries went unexplored and untreated, his condition worsened, and he was removed from his parents' care and custody during a crucial period of his development, from August to December of 2018.

53. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

54. WHEREFORE, Plaintiffs demand judgment against Defendants, Johns Hopkins All Children's Hospital, Inc., Johns Hopkins Health System Corporation, Inc., The Johns Hopkins University, Inc., Johns Hopkins Medicine, All Children's Specialty Physicians D/B/A Pediatric Physician Services, Inc., and All Children's Health System, Inc., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT III**  
**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST**  
**CATHERINE A. MAJOR, M.D. FOR THE CARE OF WILLIAM KUSHNIR**

55. Plaintiffs re-aver Paragraphs 1-40.

56. Pursuant to Chapter 766 of the Florida Statutes, upon William's admission to JHACH, Dr. Major owed William a duty of care.

57. Dr. Major breached her duty of care by making diagnoses not within her specialty or training, failing to treat William based upon his medical history and presentation, and failing to properly document William's medical history, issues, complications, treatments, and diagnoses in his medical record.



58. Dr. Major's breach proximately caused William to suffer unnecessarily as the causes of his injuries went unexplored and untreated, his condition worsened, and he was removed from his parents' care and custody during a crucial period of his development, from August to December of 2018.

59. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

60. WHEREFORE, Plaintiffs demand judgment against Defendant, Catherine A. Major, M.D., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT IV**  
**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST**  
**LUIS F. RODRIGUEZ, M.D. FOR THE CARE OF WILLIAM KUSHNIR**

61. Plaintiffs re-aver Paragraphs 1-40.

62. Upon Bayfront Health's consultation with Dr. Rodriguez and William's subsequent admission at JHACH, Dr. Rodriguez owed William a duty of care.

63. Dr. Rodriguez breached his duty of care by failing to properly document William's medical history, to follow up on the non-accidental trauma workup he and other Johns Hopkins physicians recommended, to properly investigate the cause of William's injuries, and to properly evaluate and treat William for his injuries.

64. Dr. Rodriguez's breach proximately caused William to suffer unnecessarily as the causes of his injuries went unexplored and untreated, his condition worsened, and he was removed from his parents' care and custody during a crucial period of his development, from August to December of 2018.

65. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

66. WHEREFORE, Plaintiffs demand judgment against Defendant, Luis F. Rodriguez, M.D., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records

that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and

c. For such other relief as this Honorable Court deems proper.

**COUNT V**  
**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST**  
**PETER HUSZAR, M.D. FOR THE CARE OF WILLIAM KUSHNIR**

67. Plaintiffs re-aver Paragraphs 1-40.

68. Upon William's admission at JHACH, Dr. Huszar owed William a duty of care.

69. Dr. Huszar breached his duty of care by failing to adequately review William's medical history, to follow up on the non-accidental trauma workup that was internally recommended, to properly investigate the cause of William's injuries, to monitor William to avoid inflicting lesions and other harm to his body, to properly evaluate and treat William for his injuries, and to perform follow-up testing.

70. Dr. Huszar further breached his duty of care by consulting with Smith on areas not within her specialty or training.

71. Dr. Huszar's breach proximately caused William to suffer unnecessarily as the causes of his injuries went unexplored and untreated, his condition worsened, and he was removed from his parents' care and custody during a crucial period of his development, from August to December of 2018.

72. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

73. WHEREFORE, Plaintiffs demand judgment against Defendant, Peter Huszar, M.D., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT VI**  
**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST**  
**GEORGE JALLO, M.D. FOR THE CARE OF WILLIAM KUSHNIR**

74. Plaintiffs re-aver Paragraphs 1-40.

75. Pursuant to Chapter 766 of the Florida Statutes, upon William's admission, Dr. Jallo owed William a duty of care.

76. Dr. Jallo breached his duty of care by failing to properly document and/or convey William's medical history, to follow up on the non-accidental trauma workup Johns Hopkins physicians recommended, to properly investigate the cause of William's injuries, to properly evaluate and treat William for his injuries, to monitor William to avoid inflicting lesions and other harm to his body, and to perform follow-up testing.

77. Dr. Jallo further breached his duty of care by consulting with and relying on the testing and treatment recommendations and orders of Smith in areas not within her specialty or training.

78. Dr. Jallo's breach proximately caused William to suffer unnecessarily as the causes of his injuries went unexplored and untreated, his condition worsened, and he was removed from his parents' care and custody during a crucial period of his development, from August to December of 2018.

79. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

80. WHEREFORE, Plaintiffs demand judgment against Defendant, George Jallo, M.D., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT VII**  
**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST**  
**THOMAS J. GELLER, M.D. FOR THE CARE OF WILLIAM KUSHNIR**

81. Plaintiffs re-aver Paragraphs 1-40.

82. Pursuant to 766 of the Florida Statutes, upon William's admission, Dr. Geller owed William a duty of care.

83. Dr. Geller breached his duty of care by failing to properly document and/or convey William's medical history, to follow up on the non-accidental trauma workup Johns Hopkins physicians recommended, to properly investigate the cause of William's injuries, to properly evaluate and treat William for his injuries, to monitor William to avoid inflicting lesions and other harm to his body, and to perform follow-up testing.

84. Dr. Geller further breached his duty of care by consulting with and relying on the testing and treatment recommendations and orders of Smith in areas not within her specialty or training.

85. Dr. Geller's breach proximately caused William to suffer unnecessarily as the causes of his injuries went unexplored and untreated, his condition worsened, and he was removed from his parents' care and custody during a crucial period of his development, from August to December of 2018.

86. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

87. WHEREFORE, Plaintiffs demand judgment against Defendant, Thomas J. Geller, M.D., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;

- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT VIII**  
**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST**  
**LADONNA K. BINGHAM, M.D. FOR THE CARE OF WILLIAM KUSHNIR**

88. Plaintiffs re-aver Paragraphs 1-40.

89. Pursuant to Fla. Stat. § 766.102(1), upon William's admission, Dr. Bingham owed William a duty of care.

90. Dr. Bingham breached her duty of care by failing to investigate the cause of William's injuries, deferring to and consulting with Smith, a child abuse pediatrician, on areas not within Smith's specialty or expertise, failing to develop a coherent and proper care plan for William, failing to perform proper diagnostic and other testing, failing to make decisions based on William's medical history and present condition, encouraging and/or perpetuating false allegations of abuse, failing to properly document William's medical and social history and the birthing complications, failing to follow up on the non-accidental trauma workup recommended internally and by outside providers, and failing to follow up on the MRI recommended internally by Smith and others..

91. Dr. Bingham's breach proximately caused William to suffer unnecessarily as the causes of his injuries went unexplored and untreated, his condition worsened, and he was removed

from his parents' care and custody during a crucial period of his development, from August to December of 2018.

92. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

93. WHEREFORE, Plaintiffs demand judgment against Defendant, Ladonna K. Bingham, M.D., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT IX**  
**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST**  
**ELLIOT MELENDEZ, M.D. FOR THE CARE OF WILLIAM KUSHNIR**

94. Plaintiffs re-aver Paragraphs 1-40.

95. Pursuant to Fla. Stat. § 766.102(1), upon William's admission Dr. Melendez owed William a duty of care.



96. Dr. Melendez breached his duty of care by failing to investigate the cause of William's injuries, deferring to and consulting with Smith, a child abuse pediatrician, on areas not within Smith's specialty or expertise, failing to develop a coherent and proper care plan for William, failing to perform proper diagnostic and other testing, failing to make decisions based on William's medical history and present condition, encouraging and/or perpetuating false allegations of abuse, failing to properly document William's medical and social history and the birthing complications, failing to follow up on the non-accidental trauma workup recommended internally and by outside providers, and failing to follow up on the MRI recommended internally by Smith and others..

97. Dr. Melendez's breach proximately caused William to suffer unnecessarily as the causes of his injuries went unexplored and untreated, his condition worsened, and he was removed from his parents' care and custody during a crucial period of his development, from August to December of 2018.

98. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

99. WHEREFORE, Plaintiffs demand judgment against Defendant, Elliot Melendez, M.D., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;

- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT X**  
**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST**  
**JAVIER F. QUINTANA, M.D. FOR THE CARE OF WILLIAM KUSHNIR**

100. Plaintiffs re-aver Paragraphs 1-40.

101. Pursuant to Fla. Stat. § 766.102(1), upon William's admission, Dr. Quintana owed William a duty of care.

102. Dr. Quintana breached his duty of care by failing to perform proper diagnostic and other testing, failing to make decisions based on William's medical history and present condition, encouraging and/or perpetuating false allegations of abuse, failing to properly document William's medical and social history and the birthing complications, and failing to follow up on the non-accidental trauma workup recommended internally and by outside providers.

103. Dr. Quintana's breach proximately caused William to suffer unnecessarily as the causes of his injuries went unexplored and untreated, his condition worsened, and he was removed from his parents' care and custody during a crucial period of his development, from August to December of 2018.

104. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation

as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

105. WHEREFORE, Plaintiffs demand judgment against Defendant, Javier F. Quintana, M.D., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT XI**  
**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST**  
**NICOLE CHANDLER, M.D. FOR THE CARE OF WILLIAM KUSHNIR**

106. Plaintiffs re-aver Paragraphs 1-40.

107. Pursuant to Fla. Stat. § 766.102(1), upon William's admission Dr. Chandler owed William a duty of care.

108. Dr. Chandler breached her duty of care by failing to investigate the cause of William's injuries, deferring to and consulting with Smith, a child abuse pediatrician, on areas not within Smith's specialty or expertise, failing to develop a coherent and proper care plan for William, failing to perform proper diagnostic and other testing, failing to make decisions based on

William's medical history and present condition, encouraging and/or perpetuating false allegations of abuse, failing to properly document William's medical and social history and the birthing complications, failing to follow up on the non-accidental trauma workup recommended internally and by outside providers, and failing to follow up on the MRI recommended internally by Smith and others.

109. Dr. Chandler's breach proximately caused William to suffer unnecessarily as the causes of his injuries went unexplored and untreated, his condition worsened, and he was removed from his parents' care and custody during a crucial period of his development, from August to December of 2018.

110. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

111. WHEREFORE, Plaintiffs demand judgment against Defendant, Nicole Chandler, M.D., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records

that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and

c. For such other relief as this Honorable Court deems proper.

**COUNT XII**  
**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST**  
**NICK W. PARILLA, M.D. FOR THE CARE OF WILLIAM KUSHNIR**

112. Plaintiffs re-aver Paragraphs 1-40.

113. Pursuant to Fla. Stat. § 766.102(1), upon William's admission, Dr. Parilla owed William a duty of care.

114. Dr. Parilla breached his duty of care by failing to make decisions based on William's medical history and present condition, encouraging and/or perpetuating false allegations of abuse such as retinal detachment, failing to properly document William's medical history, failing to follow up on the non-accidental trauma workup recommended internally and by outside providers, and by adopting and perpetuating medically unsound theories of child abuse not falling within a reasonable degree of medical certainty.

115. Dr. Parilla's breach proximately caused William to suffer unnecessarily as the causes of his injuries went unexplored and untreated, his condition worsened, and he was removed from his parents' care and custody during a crucial period of his development, from August to December of 2018.

116. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

117. WHEREFORE, Plaintiffs demand judgment against Defendant, Nick W. Parilla, M.D., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT XIII**  
**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST**  
**CHARLES D. ELDRIDGE IV, M.D. FOR THE CARE OF WILLIAM KUSHNIR**

118. Plaintiffs re-aver Paragraphs 1-40.

119. Pursuant to Fla. Stat. § 766.102(1), upon William's admission, Dr. Eldridge owed William a duty of care.

120. Dr. Eldridge breached his duty of care by failing to properly document William's medical history, to properly investigate the cause of William's injuries, and to properly evaluate and coordinate treatment of William's injuries based upon his medical history and presentation.

121. Dr. Eldridge's breach proximately caused William to suffer unnecessarily as the causes of his injuries went unexplored and untreated, his condition worsened, and he was removed from his parents' care and custody during a crucial period of his development, from August to December of 2018.

122. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

123. WHEREFORE, Plaintiffs demand judgment against Defendant, Charles D. Eldridge IV, M.D., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT XIV**  
**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST**  
**MICHAEL GEORGE, M.D. FOR THE CARE OF WILLIAM KUSHNIR**

124. Plaintiffs re-aver Paragraphs 1-40.

125. Pursuant to Fla. Stat. § 766.102(1), upon William's admission at Bayfront Health, Dr. George owed William a duty of care.

126. Dr. George breached his duty of care by failing to properly investigate, document, and communicate William's medical history and conversation with William's private pediatrician,

and instead perpetuating unsupported allegations of child abuse internally and to outside providers, failing to treat William's condition based upon his medical history and his presentation and instead delaying William's care and treatment.

127. Dr. George's breach proximately caused William to suffer unnecessarily as the causes of his injuries went unexplored and untreated, his condition worsened, and he was removed from his parents' care and custody during a crucial period of his development, from August to December of 2018.

128. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

129. WHEREFORE, Plaintiffs demand judgment against Defendant, Michael George, M.D., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.



**COUNT XV**  
**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST**  
**ROBIN E. OSBORN, D.O. FOR THE CARE OF WILLIAM KUSHNIR**

130. Plaintiffs re-aver Paragraphs 1-40.

131. Pursuant to Fla. Stat. § 766.102(1), upon William's admission at Bayfront Health and subsequent rendering of medical opinions and diagnoses influencing the ongoing care and treatment of William, Dr. Osborn owed William a duty of care.

132. Dr. Osborn breached his duty of care by perpetuating unsupported allegations and theories of child abuse internally and to outside providers, failing to review William's prior medical history before providing medical diagnoses and opinions that were not grounded in medical research, fact or reality, failing to reasonably inform himself of William's ongoing condition and the birthing records, and failing to investigate other potential causes of William's condition prior to rendering offering opinions and diagnoses.

133. Dr. Osborn's breach proximately caused William to suffer unnecessarily as the causes of his injuries went unexplored and untreated, his condition worsened, and he was removed from his parents' care and custody during a crucial period of his development, from August to December of 2018.

134. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

135. WHEREFORE, Plaintiffs demand judgment against Defendant, Robin E. Osborn, as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment,

humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;

- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

#### **COUNT XVI**

**NEGLIGENT HIRING, RETENTION, SUPERVISION, AND/OR RATIFICATION OF SALLY M. SMITH, M.D. AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL, INC., JOHNS HOPKINS HEALTH SYSTEM CORPORATION, INC., THE JOHNS HOPKINS UNIVERSITY, INC., JOHNS HOPKINS MEDICINE, ALL CHILDREN'S SPECIALITY PHYSICIANS d/b/a PEDIATRIC PHYSICIAN SERVICES, INC., AND/OR ALL CHILDREN'S HEALTH SYSTEM, INC.**

136. Plaintiffs re-aver Paragraphs 1-40.

137. Smith was an active staff member and maintained staff privileges at JHACH.

138. The Johns Hopkins entities were best positioned to protect William as their patient, and consequently, had an independent duty to select and retain competent independent physicians seeking or maintaining staff privileges.

139. At all times material hereto, Smith was an employee of a defendant Johns Hopkins entity, or actual or apparent agent in that JHACH held Smith out to the Kushnirs as their agent and/or tolerated or permitted Smith to hold herself out as JHACH's agent.

140. Specifically, JHACH allowed Smith as an "active staff member" to freely enter into the facility and into William's room to offer care, treatment and medical opinions. JHACH also granted Smith "computerized provider order entry" privileges such that Smith could—and did—

not only order care and treatment for William verbally, but also through his electronic health record.

141. Additionally, upon their first meeting, Smith, without introducing or identifying herself, walked into William's room exactly as every other hospital physician attending to William and demanded that Vadim and Elina provide their son's medical history. The parents complied, and even when Smith evaluated William and took pictures of his body, neither Smith nor JHACH corrected the misapprehension that Smith was a JHACH physician.

142. Additionally, based upon information and belief, Smith was in a direct or indirect contractual relationship with JHACH whereby Smith taught young Johns Hopkins physicians in the clinical identification and treatment of child abuse as a part of JHM's residency program at JHACH, and the resident physicians, as well as their more experienced counterparts, freely consulted Smith and were instructed to do so. Smith's extensive involvement in JHM's clinical trainings, her availability and willingness to provide consultations, her service on JHACH's various medical committees, and, based upon information and belief, her personal friendship with JHACH physicians such as Catherine Major, M.D. created the environment and appearance that Smith was just another hospital pediatrician.

143. The Johns Hopkins entities hired and retained Smith as an active staff member when it knew or should have known that she was unfit to carry out the job responsibilities which she was hired to perform.

144. The Johns Hopkins entities became aware or should have become aware of Smith's history of documenting inflated and false claims of child abuse, and thereafter should have either terminated her, supervised her work, or prevented her from working in assessing abuse of children.

145. JHACH owed a duty to William to provide competent and properly screened staff, and to review their performance over time, in treating William, a minor.

146. The Johns Hopkins entities breached their duty to Plaintiffs by:
- a. Allowing Smith to maintain staff privileges at the hospital, especially given her employment with Suncoast Center;
  - b. Failing to discover that Smith's opinions of abuse had been rejected by at least one court in the State of Florida;
  - c. Failing to supervise the care and treatment being provided to William by Smith and when it knew or should have known that the treatment they were providing was below the standard of care;
  - d. Failing to terminate or remove Smith's privileges when it became aware or should have become aware that the treatment Smith was providing to William was below the required standard of care.

147. By incorporating Smith into the team providing William care, and in adopting a treatment plan that embraced Smith's opinions, the defendant Johns Hopkins entities ratified the conduct of Smith.

148. Moreover, the defendant Johns Hopkins entities, their involved physicians and other healthcare providers, and Smith acted with common purpose and concerted action in treating William during his admission at JHACH, and as such, each is liable for the actions of the other.

149. As either an employee or a retained actual or apparent agent and given her "active medical staff" status and her maintenance of staff privileges, or as holding her out as a treating pediatrician, the Johns Hopkins entities are vicariously liable for Smith's actions and omissions.

150. WHEREFORE, Plaintiffs demand judgment against Defendants, Johns Hopkins All Children's Hospital, Inc., Johns Hopkins Health System Corporation, Inc., The Johns Hopkins University, Inc., Johns Hopkins Medicine, All Children's Specialty Physicians D/B/A Pediatric Physician Services, Inc., and All Children's Health System, Inc., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT XVII**  
**NEGLIGENT HIRING, RETENTION, SUPERVISION, AND RATIFICATION OF**  
**SALLY M. SMITH, M.D. AGAINST SUNCOAST CENTER, INC.**

151. Plaintiffs re-aver Paragraphs 1-40.

152. Suncoast hired Smith when it knew or should have known that she was unfit to carry out the job responsibilities which she was hired to perform.

153. Suncoast owed a duty to Plaintiffs to provide competent medical staff to assess allegations of child abuse against the parents, and to treat William, a minor, while he was at JHACH.

154. Suncoast breached its duty to Plaintiffs by:

- a. Hiring Smith when it knew or should have known she was unfit to perform the job responsibilities she was hired to perform;
- b. Failing to discover that Smith was not adequately treating William while he was a patient at JHACH;

- c. Failing to supervise the treatment being provided to William by Smith when it knew or should have known the treatment she was providing was below the standard of care; and
- d. Failing to discover, and if discovered, failing to terminate Smith after her opinions of child abuse were rejected by at least one Court in the State of Florida; and
- e. Failing to terminate or reassign Smith when it became aware or should have become aware that the treatment Smith was providing to William was below the required standard of care.

155. WHEREFORE, Plaintiffs demand judgment against Defendant, Suncoast Center, Inc., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT XVIII**  
**NEGLIGENT HIRING, RETENTION, SUPERVISION, AND/OR RATIFICATION OF**  
**ITS INVOLVED PHYSICIANS AND OTHER HEALTHCARE PROVIDERS**  
**INCLUDING CATHERINE A. MAJOR, M.D., LUIS F. RODRIGUEZ, M.D., PETER**  
**HUSZAR, M.D., GEORGE JALLO, M.D., THOMAS J. GELLER, M.D., LADONNA K.**

**BINGHAM, M.D., ELLIOT MELENDEZ, M.D., JAVIER F. QUINTANA, M.D., NICOLE CHANDLER, M.D., NICK W. PARILLA, M.D., CHARLES D. ELDRIDGE IV, M.D., LINDSEY KREBS, ELIZABETH A. SUMNER, AND CATHERINE Bedy AGAINST JOHNS HOPKINS ALL CHILDREN’S HOSPITAL, INC., JOHNS HOPKINS HEALTH SYSTEM CORPORATION, INC., THE JOHNS HOPKINS UNIVERSITY, INC., JOHNS HOPKINS MEDICINE, ALL CHILDREN’S SPECIALITY PHYSICIANS d/b/a PEDIATRIC PHYSICIAN SERVICES, INC., AND/OR ALL CHILDREN’S HEALTH SYSTEM, INC.**

156. Plaintiffs re-aver Paragraphs 1-40 and the specific allegations of medical malpractice as to the physicians contained in Counts II—XIII.

157. Drs. Major, Rodriguez, Huszar, Jallo, Geller, Bingham, Parilla, and Eldridge, and Krebs, Sumner, and Bedy were all employees of JHACH, JHHSC, JHU, JHM, Pediatric Physician Services, and/or All Children’s Health System, Inc. at all times material hereto.

158. The Johns Hopkins entities were best positioned to protect William as their patient, and consequently, had an independent duty to select and retain competent independent physicians and other healthcare providers seeking employment or medical privileges at JHACH.

159. Further, JHACH had a duty to provide physicians and staff that could provide a competent, appropriate assessment and treatment plan for William, to provide properly screened staff, and to review their performance over time, in treating William, a minor.

160. In line with Fla. Stat. § 766.110, JHACH had a duty to effect comprehensive risk management and the competence of its medical staff and personnel through careful selection and review, and is liable for failing to exercise due care in these duties.

161. JHACH had a further duty to supervise William’s treatment and ensure that his care was properly coordinated by the involved doctors and healthcare providers.

162. The Johns Hopkins entities breached their duty to Plaintiffs as follows.

163. The Johns Hopkins entities hired and retained these physicians and other healthcare providers when it knew or should have known that they were unfit to carry out the job responsibilities for which they were hired.

164. JHACH either failed to put in place adequate policies and procedures to coordinate William's care, or failed to follow through on its policies and procedures, thus allowing for inconsistent, arbitrary treatment by the involved doctors and staff.

165. William's treatments and diagnoses were inadequate, inconsistent and at times arbitrary.

166. JHACH became aware or should have become aware of the inadequate treatments and diagnoses and should have coordinated a coherent plan but failed to do so.

167. In not taking corrective action to ensure competent, appropriate treatment and care, the Johns Hopkins entities ratified the inconsistent and inexplicable actions of the involved doctors and other healthcare providers.

168. Moreover, the defendant Johns Hopkins entities and their involved physicians and other healthcare providers acted with common purpose and concerted action in treating William during his admission at JHACH, and as such, each is liable for the actions of the other.

169. As the involved physicians and other healthcare providers were employees the Johns Hopkins entities, the Johns Hopkins entities are vicariously liable for the actions and omissions of the involved physicians and other healthcare providers.

170. WHEREFORE, Plaintiffs demand judgment against Defendants, Johns Hopkins All Children's Hospital, Inc., Johns Hopkins Health System Corporation, Inc., The Johns Hopkins University, Inc., Johns Hopkins Medicine, All Children's Specialty Physicians D/B/A Pediatric Physician Services, Inc., and All Children's Health System, Inc., as follows:



- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT XIX**  
**NEGLIGENT HIRING, RETENTION, SUPERVISION, AND RATIFICATION OF**  
**ROBIN E. OSBORN, D.O. AGAINST TAMPA BAY RADIOLOGY ASSOCIATES, P.A.**  
**AND BAYFRONT HEALTH PORT CHARLOTTE**

171. Plaintiffs re-aver Paragraphs 1-40 and the specific allegation of medical malpractice against Dr. Osborn, Count XV.

172. At all times material hereto, Dr. Osborn was a radiologist employed by Tampa Bay Radiology and provided radiology services at Bayfront Health through a contractual arrangement between Tampa Bay Radiology and Bayfront Health.

173. Tampa Bay Radiology and Bayfront Health were best positioned to protect William, and consequently, had an independent duty to employ and retain competent physicians and to extend hospital privileges to only properly qualified and competent physicians.

174. Further, Tampa Bay Radiology and Bayfront Health had a duty to provide physicians that were fit to carry out the job responsibilities for which they were hired and to

adequately supervise and train physicians who would render opinions and diagnoses affecting current and former patients' ongoing care.

175. Tampa Bay Radiology and Bayfront Health hired and retained Dr. Osborn when it knew or should have known that he was unfit to carry out his duties and his obligations to former and current patients.

176. Further, Tampa Bay Radiology and Bayfront Health breached their duty to Plaintiffs by allowing Dr. Osborn to maintain his privileges at Bayfront Health, failing to properly train him and ensure his medical opinions and diagnoses would be grounded in sound medical principles and research, and failed to terminate or remove Dr. Osborn's privileges when Tampa Bay Radiology and Bayfront Health became aware or should have become aware that the diagnoses and treatment Dr. Osborn was providing were below the required standard of care.

177. In not taking corrective action to ensure competent, appropriate treatment and care of William, Tampa Bay Radiology and Bayfront Health ratified the inexplicable actions of Dr. Osborn.

178. Moreover, Tampa Bay Radiology and Bayfront Health employed Dr. Osborn and are vicariously liable for his acts and omissions.

179. Moreover, Tampa Bay Radiology, Bayfront Health, and Dr. Osborn acted with common purpose and concerted action with respect to William's injuries, and as such, each is liable for the actions of the other.

180. WHEREFORE, Plaintiffs demand judgment against Defendants, Tampa Bay Radiology Associates, P.A. and Bayfront Health Port Charlotte, as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment,

humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;

- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT XX**  
**NEGLIGENT SUPERVISION, MANAGEMENT, AND RATIFICATION OF JOHNS HOPKINS ALL CHILDREN'S HOSPITAL, INC. AGAINST JOHNS HOPKINS HEALTH SYSTEM CORPORATION, INC., THE JOHNS HOPKINS UNIVERSITY, INC., AND JOHNS HOPKINS MEDICINE**

181. Plaintiffs re-aver Paragraphs 1-40 and the specific pertinent count of medical malpractice, Count II.

182. Based upon information and belief, JHACH was a fully integrated member (i.e., a subsidiary and/or wholly owned entity) of JHHSC, a foreign not-for-profit corporation doing business in Florida, at all times material hereto. Additionally, JHHSC and JHU were directly involved in developing, supervising, managing, and operating medical programs and other day-to-day operations of JHACH through a foreign trade name, JHM, which was and is wholly and legally owned by JHHSC and JHU.

183. Based upon information and belief, prior to the integration, JHHSC, JHU, JHM, and its agents travelled to Florida and conducted due diligence in Pinellas and Sarasota counties and became familiar with the staff and management of JHACH. Following JHHSC's acquisition of JHACH, and further based upon information and belief, in the seven-year period leading up to

William's admission in 2018, JHHSC, JHU, JHM, and its agents periodically visited JHACH's facilities in Pinellas and Sarasota counties to evaluate JHACH's performance, conduct quality assurance assessments, and implement corrective measures.

184. Prior to the series of events affecting the Plaintiffs in the fall of 2018, JHHSC, JHU, and JHM had direct notice of critical failures of JHACH management, reflected in the gross deviations from the accepted standard of care within multiple departments of JHACH that have been the subject of extensive reporting in the local press. These gross deviations included, but are not limited to, multiple incidents involving the cardiac unit whereby JHACH left medical instruments, pins, sponges and other various items inside the body cavities of child patients during operations, misdiagnosis of symptoms, and other failures of JHACH's surgical techniques resulting in a statistically, professionally, and morally unacceptable number of deaths at JHACH's hands.

185. Based on the actual knowledge of the gross mismanagement by JHACH's administration over its medical staff and doctors, JHHSC, JHU, and JHM had an affirmative duty to investigate JHACH's failures and implement corrective measures at JHACH to end the unnecessary deaths and maltreatment of JHACH patients.

186. JHHSC, JHU, and JHM failed to significantly alter JHACH's management structure, and in the face of continued significant medical errors, to alternatively shut down the hospital, disaffiliate from JHACH, or shut down those departments with JHACH resistant to effective change.

187. These failures proximately caused and led to the environment and reckless approach to medicine that the Kushnirs encountered in August 2018, and during the ensuing tragedy JHHSC, JHU, and JHM took no significant action to alter or remediate the maltreatment of the involved physicians and other health care providers.

188. WHEREFORE, Plaintiffs demand judgment against Defendants, Johns Hopkins Health System Corporation, Inc., The Johns Hopkins University, Inc., and Johns Hopkins Medicine, as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT XXI**  
**ABUSE OF PROCESS AGAINST SALLY M. SMITH, M.D.**

189. Plaintiffs re-aver Paragraphs 1-40.

190. Smith willfully and intentionally misused the process set out in Chapter 39, Florida Statutes, for investigating child abuse.

191. Smith's improper and perverted use of this process, and the associated dependency proceeding, was marked by the removal of both William and Adele without adequate substantiation or investigation of Smith's and the other Defendants' abuse allegations.

192. Smith used the process after it was catalyzed by a false and unsubstantiated report of child abuse, and after the initiation of the dependency proceeding, by continuing to ignore the

organic causes and true etiology of William's condition and by pressing for removal of William and Adele from their parents.

193. Smith's use of the process was contrary and diametrically opposed to the purposes set out in Chapter 39, which provides for the preservation of families and support of parents caring for medically complex children. In instead working against the family, ignoring exculpatory evidence, and failing to consider the true causes of William's condition, Smith's actions demonstrated a purpose for which the process set out in Chapter 39 was not intended.

194. Smith misused this process for some wrongful and unlawful object, collateral purpose, and for her own ulterior motives. Specifically, Smith misused this process for her own financial gain, as she is paid hourly for her work as the Medical Director of the Pinellas County Child Protection Team. In misusing the process, Smith effectively created work for herself for her personal economic benefit.

195. Smith's wrongful object, collateral purpose, and ulterior motive was also to misuse the process and detain William at JHACH, where she holds full staff privileges, is an active staff physician, serves on multiple hospital committees, and acts as the child abuse rotation director for the Johns Hopkins residency program. In doing so, Smith's ulterior motive and collateral purpose was financially motivated, the detention of William benefitting JHACH who was able to bill for William's "care".

196. As a result of Smith's willful and intentional misuse of process for these wrongful and collateral purposes, Plaintiffs were damaged financially in having to expend significant legal costs, interrupt their lives, and miss work resulting in lost wages and income. Additionally, Smith's actions caused emotional damage in the form of reputational loss, mental and emotional suffering, and deprivation of Plaintiffs' liberty.

197. WHEREFORE, Plaintiffs demand judgment against Defendant, Sally M. Smith, M.D., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT XXII**  
**ABUSE OF PROCESS AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL,**  
**INC.**

198. Plaintiffs re-aver Paragraphs 1-40.

199. Defendant JHACH willfully and intentionally misused the process set out in Chapter 39, Florida Statutes, for investigating child abuse.

200. JHACH improper and perverted use of this process, and the associated dependency proceeding, was marked by the removal of both William and Adele without adequate substantiation or investigation of JHACH's and the other Defendants' abuse allegations.

201. JHACH used the process after it was catalyzed by a false and unsubstantiated report of child abuse initiated at JHACH, and after the initiation of the dependency proceeding, by

continuing to ignore the organic causes and true etiology of William's condition and by pressing for removal of William and Adele from their parents.

202. JHACH's use of the process was contrary and diametrically opposed to the purposes set out in Chapter 39, which provides for the preservation of families and support of parents caring for medically complex children. In instead working against the family, ignoring exculpatory evidence, and failing to consider the true causes of William's condition, JHACH's actions demonstrated a purpose for which the process set out in Chapter 39 was not intended.

203. Smith misused this process for some wrongful and unlawful object, collateral purpose, and for its own ulterior motives. Specifically, JHACH misused this process for its own financial gain, as JHACH was able to bill the Plaintiffs and their insurer for William's "care" while he was improperly detained at JHACH. In misusing the process, JHACH effectively padded its own income statement and lined its pockets.

204. JHACH's wrongful object, collateral purpose, and ulterior motive was also to misuse the process and detain William at JHACH while pursuing and encouraging a dependency proceeding aimed at removing William and Adele from their parents' custody, for the additional perverted purpose of offloading liability for its negligent "care" by attempting to hide behind the limited immunity provided for in Chapter 39. In doing so, JHACH outsourced and improperly delegated critical care decisions of its neurologists, radiologists, and PICU physicians to Smith, a pediatrician leading a team of even less qualified investigators, in hopes that JHACH's failure to properly address William's medical condition would be covered up by the limited immunity provided for in Chapter 39.

205. JHACH's further wrongful object, collateral purpose, and ulterior motive was to shift any liability for its bad faith actions to Smith. JHACH's modus operandi includes shifting or offloading potential liability onto Smith for its negligent "care" and baseless child abuse



accusations, all while JHACH refuses to acknowledge Smith's close and lengthy relationship with the Hospital, so that JHACH can pretend that Smith was acting independently and was disassociated from JHACH.

206. As a result of JHACH's willful and intentional misuse of process for these wrongful and collateral purposes, Plaintiffs were damaged financially in having to expend significant legal costs, interrupt their lives, and miss work resulting in lost wages and income. Additionally, JHACH's actions caused emotional damage in the form of reputational loss, mental and emotional suffering, and deprivation of Plaintiffs' liberty.

207. WHEREFORE, Plaintiffs demand judgment against Defendant, Johns Hopkins All Children's Hospital, Inc., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT XXIII**  
**MALICIOUS PROSECUTION AGAINST SALLY M. SMITH, M.D.**

208. Plaintiffs re-aver Paragraphs 1-40.

209. An original civil proceeding in the form of a dependency action was commenced against the Plaintiffs.

210. Smith was the legal cause of the dependency action against the Plaintiffs whose family autonomy and very existence was threatened and jeopardized. Specifically, Smith's prosecutorial "investigation" and report served as the basis for the initiation of the dependency action and was the primary basis for any finding of probable cause.

211. The termination of the dependency action constituted a bona fide termination of the proceeding in favor of the Plaintiffs, and specifically, when the dependency court entered its Order Denying Petition for Dependency on December 10, 2018.

212. There was an absence of probable cause for the dependency proceeding, as Smith's report was unsubstantiated conjecture and ignored the true etiology for William's condition and presentation to JHACH months earlier. Specifically, Smith's positive findings of physical abuse served as the faulty basis for removal of the children from their parents' custody during the pendency of the dependency action.

213. Smith acted with malice. Smith's acts and omissions, her faulty conclusions, her failure to consider exculpatory information, and her willingness to express opinions and reach findings well beyond the scope of her competence demonstrated her malice.

214. As a result of Smith's malicious prosecution, Plaintiffs were damaged financially and emotionally.

215. WHEREFORE, Plaintiffs demand judgment against Defendant, Sally M. Smith, M.D., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment,

humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;

- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT XXIV**  
**MALICIOUS PROSECUTION AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL, INC.**

216. Plaintiffs re-aver Paragraphs 1-40.

217. An original civil proceeding in the form of a dependency action was commenced against the Plaintiffs.

218. JHACH was the legal cause of the dependency action against the Plaintiffs whose family autonomy and very existence was threatened and jeopardized. Specifically, JHACH's false allegations and misrepresentations served as the basis for the initiation of the dependency action and was the primary basis for any finding of probable cause.

219. The termination of the dependency action constituted a bona fide termination of the proceeding in favor of the Plaintiffs, and specifically, when the dependency court entered its Order Denying Petition for Dependency on December 10, 2018.

220. There was an absence of probable cause for the dependency proceeding, as JHACH's physicians' and other healthcare providers' allegations were unsubstantiated conjecture and ignored the true etiology for William's condition and presentation to JHACH. Specifically,

JHACH's records and Smith's positive findings of physical abuse, based in part on JHACH's medical records, served as the faulty basis for removal of the children from their parents' custody during the pendency of the dependency action.

221. JHACH and its involved physicians and other healthcare providers acted with malice. Their acts and omissions, faulty conclusions, failure to consider exculpatory information, and willingness to express opinions and reach findings well beyond the scope of their competence demonstrated their malice.

222. As a result of JHACH's malicious prosecution, Plaintiffs were damaged financially and emotionally.

223. WHEREFORE, Plaintiffs demand judgment against Defendant, Johns Hopkins All Children's Hospital, Inc., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT XXV**  
**MALICIOUS PROSECUTION AGAINST ROBIN E. OSBORN, D.O.**

224. Plaintiffs re-aver Paragraphs 1-40.

225. An original civil proceeding in the form of a dependency action was commenced against the Plaintiffs.

226. Dr. Osborn was the legal cause of the dependency action against the Plaintiffs whose family autonomy and very existence was threatened and jeopardized. Specifically, Osborn's uninformed opinions and reports to Smith and JHACH served as the basis for the initiation of the dependency action.

227. The termination of the dependency action constituted a bona fide termination of the proceeding in favor of the Plaintiffs, and specifically, when the dependency court entered its Order Denying Petition for Dependency on December 10, 2018.

228. There was an absence of probable cause for the dependency proceeding, as Osborn's opinions amounted to unsubstantiated conjecture and ignored the true etiology for William's condition and presentation to JHACH months earlier.

229. Osborn acted with malice. Osborn's acts and omissions, his faulty conclusions, and his willingness to express opinions and reach findings without having conducted due diligence on William's entire medical history demonstrated his malice.

230. As a result of Osborn's malicious prosecution, Plaintiffs were damaged financially and emotionally.

231. WHEREFORE, Plaintiffs demand judgment against Defendant, Robin E. Osborn, D.O., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;

- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT XXVI**  
**INTENTIONAL INTERFERENCE WITH THE CUSTODIAL PARENT-CHILD**  
**RELATIONSHIP BY SALLY M. SMITH, M.D. AND JOHNS HOPKINS ALL**  
**CHILDREN'S HOSPITAL, INC.**

232. Plaintiffs re-aver Paragraphs 1-40.

233. Defendant Smith and JHACH, with knowledge that William's and Adele's parents did not consent, compelled the removal of William and Adele from their parents' custody.

234. The Plaintiff parents had superior custody rights to the child and Defendants Smith and JHACH intentionally interfered with those rights. Specifically, Smith and JHACH, through coordinated action, detained William despite Vadim and Elina's expressed lack of consent, and in doing so, prevented the complaining Plaintiff parents from exercising their parental rights.

235. Smith's and JHACH's intentional interference caused harm to Vadim and Elina's parental relationship with their children, as the trauma of parental separation during William's infancy and in Adele's early life has detrimental and irreversible effects on the familial bonds between parent-child and further jeopardizes the long-term emotional and mental development and health of the children.

236. As a result of Smith's and JHACH's intentional interference with these parent-child relationships, Plaintiffs were damaged.

237. WHEREFORE, Plaintiffs demand judgment against Defendants, Sally M. Smith, M.D. and Johns Hopkins All Children's Hospital, Inc., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**COUNT XXVII**  
**CIVIL CONSPIRACY AGAINST SALLY M. SMITH, M.D., JOHNS HOPKINS ALL CHILDREN'S HOSPITAL, INC., AND ROBIN E. OSBORN, D.O.**

238. Plaintiffs re-aver Paragraphs 1-40.

239. Sally M. Smith, M.D., Johns Hopkins All Children's Hospital, Inc., and Robin E. Osborn, D.O., conspired amongst themselves to both commit an unlawful act in improperly detaining William and prosecuting the Plaintiffs, and to perform an otherwise lawful act by unlawful means.

240. Smith's, JHACH's and Osborn's coordinated action and detention of William over his parents' expressed objections amounted to an independent wrong that would be just as unlawful had just one of these Defendants taken these actions without the involvement of the others. Plainly,

each of these Defendants lacked the lawful authority to detain William against his parents' will based upon speculative and unsupported theories of abuse.

241. As a result of their respective positions and cloaked in State power, these Defendants uniquely possessed powers that none of them possessed individually, and only through their concerted action were these Defendants able to commit their wrongful acts, improper detention of William, and otherwise destroy this family.

242. Smith's, JHACH's and Osborn's coordinated action was unlawful in that these Defendants perverted the otherwise rightful process designed to protect children from harm at their parents hands, and specifically perverted the process by pursuing termination of Plaintiff parents' rights based upon unsubstantiated theories and without proper due diligence into William's medical condition(s) and organic etiology.

243. Smith's, JHACH's and Osborn's coordinated action amounted also to a lawful act by unlawful means, as termination of parental rights is rightful and lawful under proper circumstances so long as Defendants' actions complied with the purpose and directives of Chapter 39. In the instant action, however, these Defendants' pursued their allegations in bad faith and without proper investigation and consideration of exculpatory evidence and the organic etiology of William's condition(s) and presentation to JHACH.

244. In pursuit of this conspiracy, these Defendants took overt action, including, but not limited to, making bad faith allegations of abuse without proper due diligence, denying Plaintiff's requests for discharge and reunification, offering unsubstantiated opinions to other involved physicians, and reaching "positive findings of abuse" despite their lack of knowledge or appropriate expertise to fully address William's subdural hematoma and associated condition(s).

245. As a result of Smith's, JHACH's, and Osborn's conspiracy and coordinated overt actions, Plaintiffs were damaged.



246. WHEREFORE, Plaintiffs demand judgment against Defendants Sally M. Smith, M.D., Johns Hopkins All Children's Hospital, Inc., and Robin E. Osborn, D.O., as follows:

- a. For general damages, including but not limited to bodily injury; physical suffering; physical inconvenience and discomfort; mental suffering from embarrassment, humiliation, deprivation of liberty, disgrace; and injury to the Plaintiffs' feelings and reputations;
- b. For special damages, including but not limited to medical care and expenses in the past and in the future; psychological care in the past and future; probable loss of income in the future; legal expenses in the past to regain custody of William and Adele and in the future to extract themselves from any public or medical records that indicate that William suffered abuse or Vadim and Elina were under suspicion of child abuse; and
- c. For such other relief as this Honorable Court deems proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury on all issues so triable.

**ANDERSONGLENN LLP**

*/s/ Gregory A. Anderson* \_\_\_\_\_

**Gregory A. Anderson, Esquire**

Florida Bar Number: 398853

[gaanderson@asglaw.com](mailto:gaanderson@asglaw.com)

**Jennifer C. Anderson, Esquire**

Florida Bar Number: 594946

[janderson@asglaw.com](mailto:janderson@asglaw.com)

**Nicholas P. Whitney, Esquire**

Florida Bar Number: 119450

[nwhitney@asglaw.com](mailto:nwhitney@asglaw.com)

10751 Deerwood Park Blvd., Ste. 105

Jacksonville, Florida 32256

Phone: 904-273-4734, Fax: 904-273-4712

*Counsel for Plaintiffs*