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ANDREA YOUNG, AS ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF DARRYL YOUNG, Plaintiff, -vs- MARK J. ZUCKER, M.D.; MARGARITA CAMACHO, M.D.; NATALIA HOCHBAUM, M.D.; DARKO VUCICEVIC, M.D.; SAURABH KAPOOR, M.D.; ALBERT JU, M.D.; NIMESH PATEL, M.D.; CAROLYN CAVALLO; LINDA GRGAS; ALLYSON PATEREK; ADAM RAMADAN; DIANA ROC; NEWARK BETH ISRAEL MEDICAL CENTER; RWJ BARNABAS HEALTH; JOHN/JANE DOE 1-50 (fictitious names representing unknown entities, physicians, nurses, technicians, medical providers, and caretakers involved in the care, treatment, management and diagnosis of Plaintiff's decedent, DARRYL YOUNG), and ABC COMPANY 1-50 (fictitious names representing unknown entities, medical facilities and/or medical groups who were involved in the care and treatment of Plaintiff's decedent, DARRYL YOUNG), Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION – ESSEX COUNTY DKT NO.: ESX- CIVIL ACTION **COMPLAINT AND JURY DEMAND**

Plaintiff, ANDREA YOUNG, AS ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF DARRYL YOUNG, by way of Complaint against the Defendants says:

VENUE

Pursuant to R.4:3-2, Plaintiff alleges that venue in this matter is properly laid in Essex County inasmuch as Defendants conduct business in Essex County.

FACTS COMMON TO ALL COUNTS

NEWARK BETH ISRAEL-ADVANCED CENTER FOR HEART FAILURE DEFENDANTS

1. At all times relevant hereto, Defendant, Mark Zucker, M.D. (hereinafter referred to as "Zucker"), was and still is a licensed physician in the State of New Jersey.

2. At all times relevant hereto, Defendant, Margarita Camacho, M.D. (hereinafter referred to as "Camacho"), was and still is a licensed physician in the State of New Jersey.

3. At all times relevant hereto, Defendant, Natalia Hochbaum, M.D. (hereinafter referred to as "Hochbaum"), was and still is a licensed physician in the State of New Jersey.

4. At all times relevant hereto, Defendant, Darko Vucicevic, M.D. (hereinafter referred to as "Vucicevic"), was and still is a licensed physician in the State of New Jersey.

5. At all times relevant hereto, Defendant, Saurabh Kapoor, M.D. (hereinafter referred to as "Kapoor"), was and still is a licensed physician in the State of New Jersey.

NEWARK BETH ISRAEL-ANESTHESIA DEFENDANTS

6. At all times relevant hereto, Defendant, Albert Ju, M.D. (hereinafter referred to as "Ju"), was and still is a licensed physician in the State of New Jersey.

7. At all times relevant hereto, Defendant, Nimesh Patel, M.D. (hereinafter referred to as "Patel"), was and still is a licensed physician in the State of New Jersey.

NEWARK BETH ISRAEL-CARDIAC PERFUSIONIST DEFENDANTS

8. At all times relevant hereto, Defendant, Carolyn Cavallo (hereinafter referred to as "Cavallo"), was and still is a Certified Cardiac Perfusionist in the State of New Jersey.

9. At all times relevant hereto, Defendant, Linda Grgas (hereinafter referred to as "Grgas"), was and still is a Certified Cardiac Perfusionist in the State of New Jersey.

10. At all times relevant hereto, Defendant, Allyson Paterek (hereinafter referred to as "Paterek"), was and still is a Certified Cardiac Perfusionist in the State of New Jersey.

11. At all times relevant hereto, Defendant, Adam Ramadan, (hereinafter referred to as "Ramadan"), was and still is a Certified Cardiac Perfusionist in the State of New Jersey.

12. At all times relevant hereto, Defendant, Diana Roc (hereinafter referred to as "Roc"), was and still is a Certified Cardiac Perfusionist in the State of New Jersey.

RESPONDEAT SUPERIOR

13. At all times relevant hereto, Defendant, Newark Beth Israel Medical Center (hereinafter referred to as "NBIMC"), was and still is a licensed medical facility located in the State of New Jersey.

14. At all times relevant hereto, Defendant, RWJ Barnabas Health (hereinafter referred to as "RWJ"), was and still is a licensed medical facility located in the State of New Jersey.

15. At all times relevant hereto, Defendants, John/Jane Does 1-50 (hereinafter referred to as "Does"), were nurses, medical assistants, or other healthcare practitioners who were involved in the care and treatment of Plaintiff's decedent whose actual identities are currently unknown to Plaintiff.

16. At all times relevant hereto, Defendants, ABC Corporations 1-50 (hereinafter referred to as "ABC"), were other medical facilities and/or medical groups who were involved in the care and treatment of Plaintiff's decedent whose actual identities are currently unknown to Plaintiff.

17. Defendants NBIMC and RWJ are vicariously liable and/or vicariously responsible for any negligence on the part of any said actual employees, ostensible employees, agents, and/or servants including Defendants Zucker, Camacho, Hochbaum, Vucicevic, Kapoor, Ju, Patel, Cavallo, Grgas, Paterek, Ramadan, Roc, and Does ("collectively referred to as "Defendants").

Introductory Facts

18. Prior to September 21, 2018, Plaintiff's decedent, Darryl Young, a Navy Veteran, was examined and medically cleared by the Defendants to undergo open heart transplant surgery ("OHT") at Defendant NBIMC. Importantly, at the time of this clearance, Plaintiff did not exhibit any signs of brain damage or neurological impairment.

19. Prior to agreeing to undergo OHT performed by Defendants, Darryl Young was provided with information, including written materials and instructions about the nature of the OHT procedure.

20. As such, Defendants were legally required to inform Mr. Young when a potential donor organ was considered "HIGH RISK" for disease transmission.

21. Mr. Young held the exclusive right to accept or reject any donor organ, especially those deemed to be "HIGH RISK."

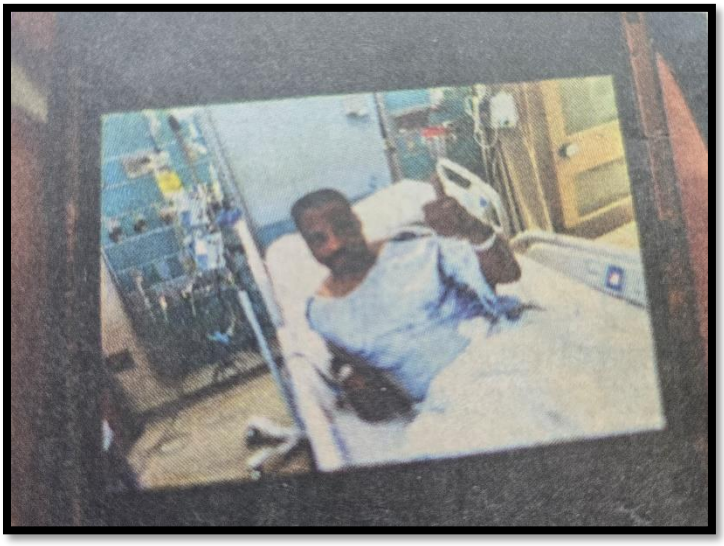
22. Defendants set forth, in writing, that they held the requirement to inform Mr. Young when a potential donor was considered high risk for transmission of disease:

> Occasionally, an appropriate donor may become available for you but may be considered high risk by the Centers for Disease Control. We are required to inform you if a potential donor for you is considered high risk for transmission of disease. These organs are often used by transplant centers across the country.
>
> CDC high risk criteria is defined as:
>
> - *Person with history of non-medical injection of drugs*
> - *Person with clotting factors disorder who received human derived clotting factor concentration*
> - *Men who had sex with another man in the last 5 years*
> - *Person who had sex with any of the above people*
> - *Person who has been exposed to suspected HIV infected blood/tissue in the past 12 months*
> - *Inmates of correctional systems*
>
> You have the final decision to accept or reject any donor organ.

23. On September 21, 2018, Darryl Young was admitted to Defendant NBIMC to undergo OHT surgery "after identification of a suitable organ donor" was found by Defendants.

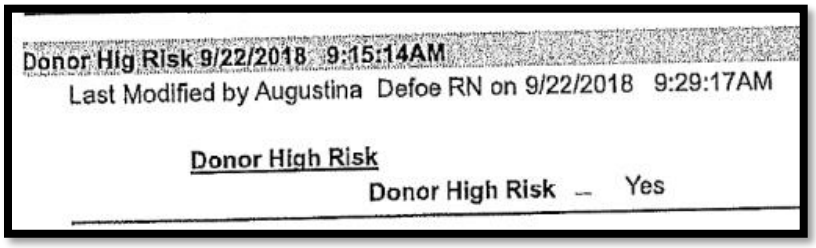
24. Upon admission to undergo the OHT surgery at Defendant NBIMC, Darryl Young was not provided with an "Advance Directive for Health Care" pursuant to Defendant NBIMC's policy which provides, "an inquiry will be made of each adult patient, at the time of admission [ ] concerning the existence and location of an

Advance Directive for Health Care. If the patient is incapable of responding to this inquiry, the medical center will ask the family or person with knowledge of the patient."



25. On September 21, 2018, Darryl Young underwent OHT surgery at Defendant NBIMC.

26. At the time of the OHT surgery at Defendant NBIMC, Darryl Young received a heart from a donor whom the Defendants knew or should have known was classified as "HIGH RISK."


Donor Hig Risk 9/22/2018 9:15:14AM
Last Modified by Augustina Defoe RN on 9/22/2018 9:29:17AM

Donor High Risk

Donor High Risk – Yes

27. Prior to the OHT surgery, Darryl Young was not informed that the heart he would receive came from a donor known to be classified as "HIGH RISK."

28. Plaintiff's decedent did not provide consent to receive a heart from a donor known to be classified as "HIGH RISK."

29. On September 22, 2018, just hours after the OHT surgery at Defendant NBIMC, Darryl Young underwent emergency surgery for a cardia tamponade.

30. Darryl Young suffered brain damage as a result of profound hypotension during the OHT surgery and subsequent cardiac tamponade surgeries performed by Defendants at NBIMC.

31. On October 31, 2018, Defendant Zucker authored a "CERTIFICATION OF ADMISSION" with an admit date of September 21, 2018, at 01:45am, noting the diagnosis as "Encephalopathy" and the reason for admission as "Psychiatric."

Patient: YOUNG, DARRYL E	Location: C8IC C802-A
MRN: [redacted]	Attending Physician: Zucker MD, Mark J.
FIN:	Diagnosis: Encephalopathy
DOB: 10/11/57 Age: 61 Years Sex: M	Anticipated Discharge Date:
Admit Date: 09/21/18 01:45	Final Discharge Disposition:
Admission Reason – Acute Care: High Level of Intensity of Services Required; Needs Inpatient Care	
Admission Reason – Psychiatric:	

32. On November 2, 2018, at 14:37 EDT (2:37 pm), Defendant Vucicevic authored an "Addendum," noting that the aforementioned operations were "complicated by profound hypotension." Darryl Young experienced "seizure activity," and while "there was some improvement in [his] mental status with time and at the time of discharge patient was opening eyes to verbal stimuli and intermittently withdrawing to painful stimuli."

Addendum by Vucicevic MD, Darko on November 02, 2018 14:37 EDT (Verified)
I agree with discharge summary as outlined above by Dr. Schmutzler

Briefly, Mr. Young underwent OHT on 9/22. His operative course was complicated by profound hypotension. Patient never woke up fully after surgery. He was followed by Neurology. There was an evidence of some seizure activity as well. There was some improvement in mental status with time and at the time of discharge patient was opening eyes to verbal stimuli and intermittently withdrawing to painful stimuli. He is having

Request ID: 304487657

33. On November 15, 2018, at 3:14pm, Defendant Vucicevic signed his "Discharge Summary" dated "10/31/2018 15:13 EDT." The summary states that Darryl Young was admitted for OHT surgery after Defendants identified "a suitable organ donor," and "on the morning of 9/22," Darryl Young was "opening his eyes and withdrawing to pain."

Hospital Course:

60 yo M with PMHx NICM s/p LVAD in 2014 admitted after identification of suitable organ donor. s/p OHTx 9/22. Very difficult dissection with extensive adhesions. Pt was vasoplegic after coming off pump. He had several runs of SVT and/or afib requiring DCCV. Went back to OR on the morning of 9/22 for pericardial tamponade. Much better hemodynamics afterwards and noted to be opening eyes and witdrawing to pain, required pressors. on 9/24, pt noted to no longer be withdrawing from pain. Pt remained unresponsive with no following of commands, but was noted to have withdrawal from pain and tickle stimuli. Tracheostomy and PEG placed was placed on 9/28. 9/29 first endocardial Bx was taken which showed grade 0 rejection. Pt on

34. On January 19, 2019, Jeromane Tenido, NG, APN examined Darryl Young at Defendant NBIMC and noted that he was able to open his eyes to verbal stimuli.

35. On October 11, 2019, Christos Monemvassitis, an Exercise Specialist, observed Darryl Young reclined in his bed with his eyes closed. He then opened his eyes in response to a loud noise but exhibited a blank stare:

DOCUMENT TYPE:	Cardiopulmonary Rehab Progress Note
SERVICE DATE/TIME:	10/8/2019 11:10 EDT
RESULT STATUS:	Auth (Verified)
PERFORMED INFORMATION:	Monemvassitis EP,Christos F (10/8/2019 16:31 EDT)
SIGNED INFORMATION:	Monemvassitis EP,Christos F (10/8/2019 16:31 EDT)

Cardiac Rehabilitation Progress Note

Subjective:
Received Patient reclined in bed, eyes closed. Opened eyes to loud noise. Blank stare.

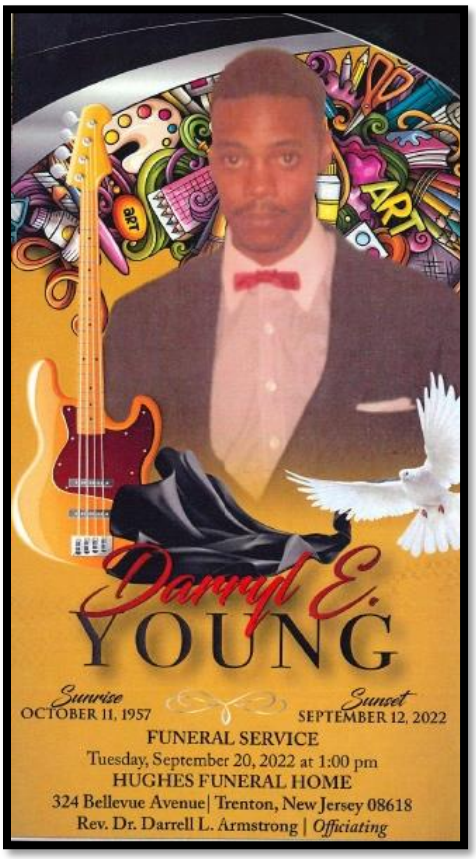
36. For informational purposes, but not by way of limitation, all Defendants provided medical care and treatment to Plaintiff's decedent, Darryl Young, during his admission for OHT surgery and post-operative care at NBIMC located in Newark, New Jersey.

37. Defendants Zucker, Camacho, Hochbaum, Vucicevic, Kapoor, Ju, Patel, Cavallo, Grgas, Paterek, Ramadan, Roc, and Does were negligent and deviated from accepted standards of medical practice in the care and treatment of Plaintiff's decedent, Darryl Young, and caused him to sustain severe injuries, experience great pain and suffering, experience severe emotional distress and mental anguish, all of which Darryl Young suffered until his death on September 12, 2022.

38. As a direct and proximate result of the negligent care and treatment provided by the Defendants as set forth in the following Counts of this Complaint, Plaintiff's decedent, Darryl Young, suffered severe injury, experienced great pain and

suffering, experienced severe emotional and mental distress, and anguish, and succumbed to his injuries on September 12, 2022.

39. As a direct and proximate result of the negligent care and treatment provided by the Defendants as set forth in the following Counts of this Complaint, Plaintiff's decedent, Darryl Young ("Plaintiff's decedent"), died on September 12, 2022.



40. On April 25, 2024, Andrea Young was duly appointed as Administratrix Ad Prosequendum of the Estate of Darryl Young.

INVESTIGATIONS BY THE UNITED STATES ATTORNEY'S OFFICE FOR THE DISTRICT OF NEW JERSEY ("USAO"), THE NEW JERSEY ATTORNEY GENERAL'S OFFICE ("NJAG") REPRESENTING THE NEW JERSEY BOARD OF MEDICAL EXAMINERS ("BOARD"), DEPARTMENT OF HEALTH AND HUMAN SERVICES CENTERS FOR MEDICARE & MEDICAID SERVICES ("CMS"), AND THE NEW JERSEY DEPARTMENT OF HEALTH ("NJDOH")

41. Beginning on October 3, 2019, ProPublica, a nonprofit newsroom that investigates abuses of power, including improper and unethical conduct within the medical community, published a series of articles written by Caroline Chen about Defendant NBIMC's Heart Transplant Program and its Director, Defendant Mark Zucker, M.D. These articles, titled as follows, highlighted significant concerns about the program's practices:

- *"It's Very Unethical: Audio Shows Hospital Kept Vegetative Patient on Life Support to Boost Survival Rates."*
- *"Feds to Investigate Hospital Alleged to Have Kept Vegetative Patient Alive to Game Transplant Survival Rates – Spurred by a ProPublica investigation, the U.S. Centers for Medicare and Medicaid Services will also carry out an inquiry."*
- *"Doctor Who Advocated "Unethical" Care of Vegetative Patient Is Placed on Leave – Newark Beth Israel acted after our report that its transplant program kept a patient alive to improve its metrics, while barely consulting his family."*
- *"The Family Wanted a Do Not Resuscitate Order. The Doctors Didn't."*

42. Defendant NBIMC and its heart transplant team ("TEAM"), including but not limited to Defendants Zucker, Camacho, Hochbaum, Vucicevic and Kapoor were concerned about potential disciplinary action by the United States Centers for Medicare and Medicaid

Services ("CMS"). This concern arose from the fact that 6 out of 38 heart transplant patients had died before reaching their one-year anniversary, resulting in an 84.2% survival rate—significantly lower than the 91.5% national survival rate reported to the Scientific Registry of Transplant Recipients, which tracks and analyzes outcomes for the United States government.

43. The TEAM made specific decisions regarding several patients, including Darryl Young, where they intentionally withheld options such as hospice care and do not resuscitate ("DNR") orders from the families of open heart transplant patients. This was done to ensure that Plaintiff's decedent and other OHT patients would survive at least one-year following their transplants at Defendant NBIMC, thereby improving the program's survival statistics.

44. During TEAM meetings at Defendant NBIMC in April 2019, Defendant Zucker told his staff, "You can send him back to a rehab facility, but if you make him DNR at the rehab facility – they will make him DNR – it'll be a problem for us." He further stated, "I don't really know what to do except tell you that I recognize what I'm asking, I said myself I'm not sure that it is ethical, moral or right, but for the global good of the future transplant

recipients, the others who come along, this program can't be put into an SIA."[1]

45. During an April 2019 TEAM meeting at Defendant NBMIC, Defendant Zucker, the Director of the TEAM, stated, "I'm not sure that this is ethical, moral or right, [but it is] for the global good of the future of transplant recipients" that the TEAM do whatever is necessary to keep Darryl Young and other OHT patients alive for at least one-year following their surgeries, in order to boost the program's survival statistics.

46. During TEAM meetings at Defendant NBIMC in or about May of 2019, with respect to aggressively treating Darryl Young and offering other options to is family, Defendant Zucker said, "This is a very, very unethical, immoral but unfortunately very practical solution, because the reality here is you haven't saved anybody if your program gets shut down."

47. At a TEAM meeting at Defendant NBIMC in or about May of 2019, Defendant Zucker also said that Darryl Young "unfortunately became the seventh potential death in a very bad year, all right, and that puts us into a very difficult spot."

48. Barry Ostrowsky, Defendant RWJ's chief executive, and Darrell Terry, Defendant NBIMC's CEO, wrote in an email to

[1] SIA stands for system improvement agreement which is a process through which CMS can force a transplant program to get back into compliance and typically costs a hospital $2 million. https://www.propublica.org/article/the-family-wanted-a-do-not-resuscitate-order-the-doctors-didnt

employees, "As the most prudent course of action to ensure complete independence of these internal and external assessments, we have placed the program's director, Dr. Mark Zucker, on administrative leave pending the conclusion of our review." They also stated that federal and state regulators were on-site at Defendant NBIMC and that the staff were "cooperating fully" as Defendants NBIMC and RWJ, "take the recent allegations involving its heart transplant program extremely seriously."

49. Plaintiff, as her brother's health proxy, authorized ProPublica to speak with Mr. Ostrowsky and representatives of Defendants. However, neither Mr. Ostrowsky nor any of the Defendants have spoken with ProPublica or Ms. Young about the cause of Darryl Young's brain damage.

50. The United States Attorney's Office for the District of New Jersey ("USAO"), the New Jersey Attorney General's Office ("NJAG"), representing the New Jersey Board of Medical Examiners ("BOARD"), the Department of Health and Human Services Centers for Medicare & Medicaid Services ("CMS"), and the New Jersey Department of Health ("NJDOH") all initiated investigations in response to the aforementioned ProPublica articles.

51. Upon information provided by counsel for Defendants NBIMC and RWJ, in connection with the investigations by the USAO, NJAG, and the BOARD, the USAO's investigation focused on Defendant NBIMC's "misrepresentations in disclosures to the government about

its transplant program" and its billing for "services designed to enhance or maintain their transplant program rather than for a legitimate medical purpose."

52. On or about October 9-11 and October 15-18, 2019, CMS conducted a "Federal Allegation Survey" of Defendant NBIMC, finding it to be "out of compliance with 42 CFR Part 482, Subpart E, Medicare Conditions of Participation ("CoP") for Transplant Centers" in relation to Complaint nos. NJ00128975, NJ00129270, NJ00129297 and NJ00129943.

53. CMS determined that Defendant NBIMC was "out of compliance" with section 482.96 – Quality Assessment and Performance Improvement ("QAPI") and section 482.102 – Patient and Living Donor Rights requiring an "Immediate Jeopardy" classification for Defendant NBIMC's Heart-Lung Transplant Program (HLTP) due to adverse events suffered by patients and the failure to implement corrective measures to prevent future adverse occurrences.

54. At all relevant times, Defendant NBIMC was required to develop, implement, and maintain a written, comprehensive, data driven QAPI program designed to monitor and evaluate the performance of all transplantation services, including services provided under contract or arrangement, as well as equipment used intraoperatively to monitor blood pressure and perfusion to prevent hypoxic adverse events in patients.

55. Based on CMS' review of documents and staff interviews, CMS found that Defendant NBIMC did not have an effective QAPI program that took corrective actions or provided necessary education to its staff, including Defendant NBMIC's perfusionists, to address adverse events and identify areas for improvement.

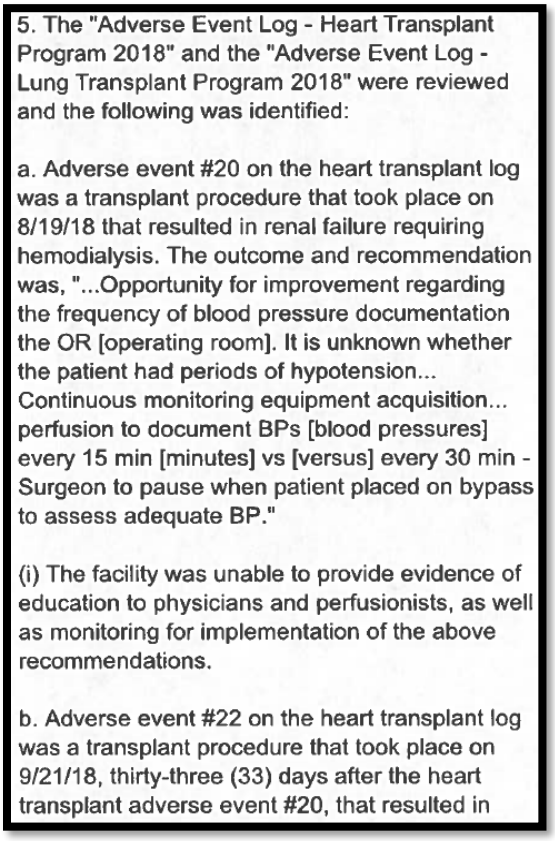
56. CMS reviewed the "Adverse Event Log – Heart Transplant Program 2018" identified "Adverse Event #20," which involved a patient who underwent a transplant procedure on August 19, 2018, that resulted in renal failure requiring hemodialysis. The documentation noted an "Opportunity for improvement regarding the frequency of blood pressure documentation the OR," Highlighting that was "unknown whether the patient had periods of hypotension." Recommendations included acquiring "continuous monitoring equipment acquisition [ ] perfusion to document blood pressure every 15 minutes versus every 30 minutes." Additionally, the "Surgeon to pause when patient placed on bypass to assess adequate BP."

57. CMS determined that the facility was unable to provide evidence of education to physicians and perfusionist of any monitoring for implementation of the above recommendations.

58. At all relevant times, Defendants did not have evidence of education for physicians and perfusionists nor monitoring for implementation of recommendations.

59. CMS further determined that Defendant NBIMC's failure to implement corrective measures resulted in permanent injuries—specifically, kidney failure requiring hemodialysis—to the patient in "Adverse Event #20" on August 19, 2018.

60. Unfortunately, these failures were repeated just 33 days later, on September 21, 2018, with Darryl Young in "Adverse Event #22," leading to brain damage.

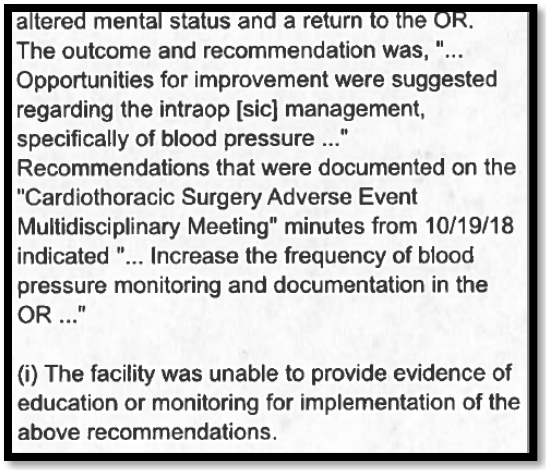


5. The "Adverse Event Log - Heart Transplant Program 2018" and the "Adverse Event Log - Lung Transplant Program 2018" were reviewed and the following was identified:

a. Adverse event #20 on the heart transplant log was a transplant procedure that took place on 8/19/18 that resulted in renal failure requiring hemodialysis. The outcome and recommendation was, "...Opportunity for improvement regarding the frequency of blood pressure documentation the OR [operating room]. It is unknown whether the patient had periods of hypotension... Continuous monitoring equipment acquisition... perfusion to document BPs [blood pressures] every 15 min [minutes] vs [versus] every 30 min - Surgeon to pause when patient placed on bypass to assess adequate BP."

(i) The facility was unable to provide evidence of education to physicians and perfusionists, as well as monitoring for implementation of the above recommendations.

b. Adverse event #22 on the heart transplant log was a transplant procedure that took place on 9/21/18, thirty-three (33) days after the heart transplant adverse event #20, that resulted in


altered mental status and a return to the OR. The outcome and recommendation was, "... Opportunities for improvement were suggested regarding the intraop [sic] management, specifically of blood pressure ..." Recommendations that were documented on the "Cardiothoracic Surgery Adverse Event Multidisciplinary Meeting" minutes from 10/19/18 indicated "... Increase the frequency of blood pressure monitoring and documentation in the OR ..."

(i) The facility was unable to provide evidence of education or monitoring for implementation of the above recommendations.

61. CMS found that Defendant NBIMC was "out of compliance" with section 482.92(b) – Organ Receipt, which requires that after an organ arrives at the transplant center, the transplanting surgeon and another licensed healthcare physician must verify that the donor's blood type and other vital data are compatible with the intended recipient prior to transplantation.

62. The transplanting surgeon and another licensed healthcare physician failed to verify the donor's blood type and other vital data were compatible with Darryl Young prior to transplantation.

63. CMS also determined that Defendant NBIMC failed to comply with its policy titled "Multidisciplinary Team Roles in all Phases of Transplants," which states that the Transplant Surgeon's responsibilities include, but are not limited to, "verifying donor and candidate compatibility."

64. Defendants failed to comply with the policy titled, "Multidisciplinary Team Roles in all Phases of Transplants."

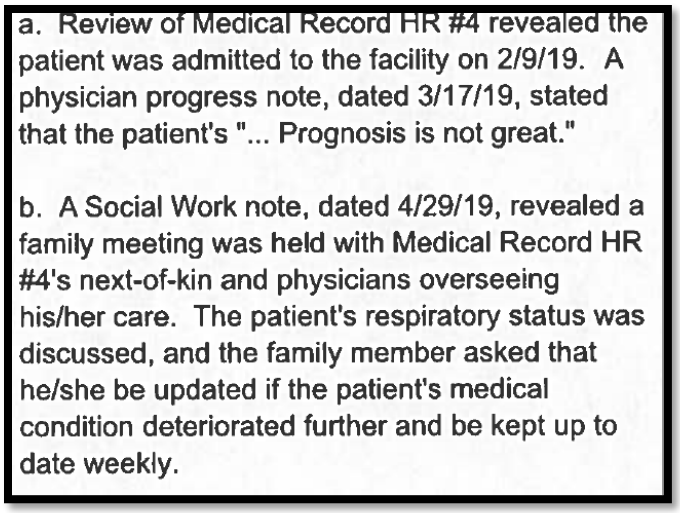
65. Regarding QAPI section 482.102 – Patient and Living Donor Rights, CMS found that Defendant NBIMC failed to protect Darryl Young's privacy rights under section 482.13. This section requires Defendant NBIMC to protect and promote each transplant patients' and living donor's privacy rights, based on staff interviews, documents, and medical records.

66. CMS found that Defendant NBIMC "failed to protect and promote each transplant patient's rights for confidentiality of protected health information (PHI), for receiving an explanation for each patient's medical condition, and for informed consent." These finding were based on a review of the ProPublica article, staff interviews, and a review of Defendant NBIMC's policies and procedures, which revealed that staff failed to maintain Darryl Young's rights to the confidentiality of his clinical records and Protected Health Information.

> b. The eight (8) facility staff members violated the patients' rights by not maintaining the confidentiality and privacy of patient information and sharing the patients' PHI with the news reporter(s) for purposes other than treatment, payment and health care operations.

67. Defendant NBIMC failed to maintain Darryl Young's rights to confidentiality regarding his personal health information, including his clinical records.

68. Darryl Young's sister, Andrea, who served as his health proxy, was not informed of his condition or prognosis despite her repeated requests for updates. During a family meeting with Defendant Camacho and others on April 29, 2019, Andrea once again inquired about Darryl's respiratory status and asked to be updated on a weekly basis, especially if his condition worsened. However, instead of honoring her requests, the TEAM only contacted Andrea to seek her permission for "test after test."



a. Review of Medical Record HR #4 revealed the patient was admitted to the facility on 2/9/19. A physician progress note, dated 3/17/19, stated that the patient's "... Prognosis is not great."

b. A Social Work note, dated 4/29/19, revealed a family meeting was held with Medical Record HR #4's next-of-kin and physicians overseeing his/her care. The patient's respiratory status was discussed, and the family member asked that he/she be updated if the patient's medical condition deteriorated further and be kept up to date weekly.

69. CMS reviewed Darryl Young's medical records, identifying him as Heart Recipient #4 ("HR #4") for the purposes of its investigation, and found that Andrea was not informed of his condition.

70. Under QAPI section 482.21 Defendant NBIMC is required to develop, implement and maintain an effective, ongoing and hospital-wide, data-driven quality assessment and performance improvement program. Defendant NBIMC's governing body must ensure

that the program reflects the complexity of the hospital's organization and services, involves all hospital departments and services (including those furnished under contract or arrangement); and focuses on indicators related to improved health outcomes and the prevention and reduction of medical errors.

71. Based on observations, staff interviews, and review of Defendant NBIMC's documentation, CMS determined that Defendant NBIMC failed to maintain a quality assessment and performance improvement program that accurately tracks adverse events, analyzes their causes, implements preventative actions, and enforces policies and procedures for the maintenance of medical equipment.

72. Defendant NBIMC failed to maintain a quality assessment and performance improvement program that accurately tracks adverse events, analyzes their causes, implements preventative actions, and enforces policies and procedures for the maintenance of medical equipment.

73. Defendant NBIMC failed to ensure accurate documentation of adverse patient events, hindering proper tracking and analysis for its Quality Assessment and Performance Improvement activities.

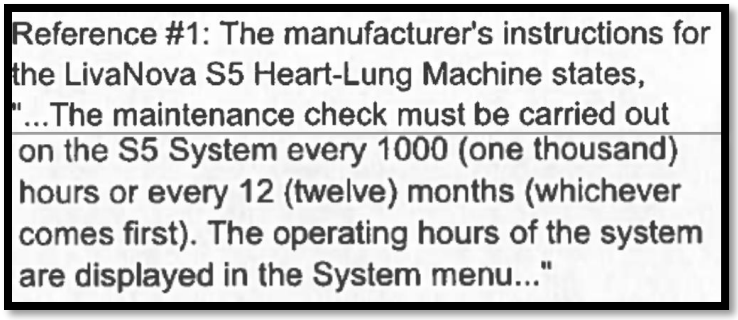
74. Defendant NBIMC failed to use adverse event analysis to implement changes and prevent repeat incidents.

75. Defendant NBIMC's governing body failed to ensure that recommendations and monitoring for adverse events in the heart and lung transplant programs were implemented and maintained.

76. Defendant NBIMC's governing body failed to ensure the implementation of policies and procedures that address the oversight required for the maintenance of medical equipment.

77. Under QAPI section 482.51 – Surgical Services – Defendant NBIMC's surgical services are required to be well organized and provided in accordance with accepted standards of practice.

78. Based on observations, staff interviews, and review of Defendant NBIMC's documentation, CMS determined that Defendant NBIMC failed to maintain perfusion equipment in accordance with manufacturer's instructions.


Reference #1: The manufacturer's instructions for the LivaNova S5 Heart-Lung Machine states, "...The maintenance check must be carried out on the S5 System every 1000 (one thousand) hours or every 12 (twelve) months (whichever comes first). The operating hours of the system are displayed in the System menu..."

79. CMS determined and Plaintiff alleges that Defendant NBIMC failed to review, develop, and implement policies and procedures for perfusion services and patient monitoring during surgery in accordance with acceptable standards of practice and New Jersey law; failed to ensure the proper development and

implementation of policies and procedures addressing the documentation of patient monitoring during surgical procedures, in accordance with New Jersey law; and failed to adhere to its own informed consent policy.

80. Defendant NBIMC failed to ensure that perfusion equipment was maintained in accordance with manufacturer's instructions.

81. Defendant NBIMC failed to review, develop, and implement policies and procedures for perfusion services and patient monitoring during surgery in accordance with acceptable standards of practice and New Jersey law.

82. Defendant NBIMC failed to develop and implement policies and procedures for documenting patient monitoring during surgical procedures, as required by New Jersey law.

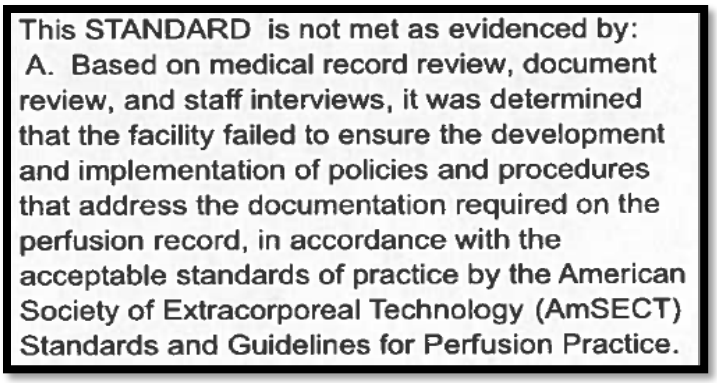
83. Defendant NBIMC failed to adhere to its informed consent policy.

84. Under QAPI section 482.51(b), Defendant NBIMC's surgical services must align with the facility's needs and resources, and its policies governing surgical care must be designed to ensure the achievement and maintenance of high standards of medical practice and care.

85. Defendant NBIMC failed to provide surgical services consistent with its needs and resources. Its policies governing surgical care failed to meet the requirements to ensure the

achievement and maintenance of high standards of medical practice and care.

86. Defendant NBIMC failed to develop and implement policies and procedures concerning the required documentation on the perfusion record, in accordance with accepted standards of practice, specifically the American Society of Extracorporeal Technology ("AmSECT") Standards and Guidelines of Perfusion Practice.


This STANDARD is not met as evidenced by:
A. Based on medical record review, document review, and staff interviews, it was determined that the facility failed to ensure the development and implementation of policies and procedures that address the documentation required on the perfusion record, in accordance with the acceptable standards of practice by the American Society of Extracorporeal Technology (AmSECT) Standards and Guidelines for Perfusion Practice.

87. Defendant NBIMC's perfusion records for Darryl Young failed to document the anesthetic gas administered during cardiopulmonary bypass, including the type, dosage, and time of administration, as required by the AmSECT Standards and Guidelines of Perfusion Practice.

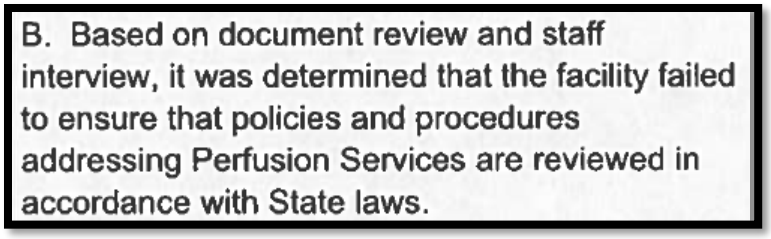
88. Defendant NBIMC's anesthesia records for Darryl Young, for the corresponding perfusion dates of service and time periods, failed to document the type, dosage, and time of administration of anesthetic gas during cardiopulmonary bypass, as required by the AmSECT Standards and Guidelines of Perfusion Practice.

89. Defendant NBIMC's perfusionists failed to document key details in Darryl Young's perfusion record, including information necessary to accurately describe the cardiopulmonary bypass procedure, personnel involved, and equipment used (ex. serial numbers for components such as roller pumps, vaporizers, and blenders), as required by the AmSECT Standards and Guidelines of Perfusion Practice.

90. Defendant NBIMC's perfusionists failed to use a checklist for Darryl Young's cardiopulmonary bypass procedure and did not include it in his permanent medical record, as required by the AmSECT Standards and Guidelines of Perfusion Practice.

91. The New Jersey Administrative Code ("NJAC") Title 8, Chapter 43G, Subchapter 34.3(a) mandates that "Surgery service shall have written policies and procedures that are reviewed at least every three years."

92. Defendant NBIMC failed to review its policies and procedures for Perfusion Services entitled, "Heart Hospital of New Jersey Department of Cardiothoracic Surgery Perfusion Services," at any time from October 21, 2005, through Darryl Young's OHT and emergency cardiac tamponade surgeries, in September 2018, in violation of the NJAC.


B. Based on document review and staff interview, it was determined that the facility failed to ensure that policies and procedures addressing Perfusion Services are reviewed in accordance with State laws.

93. The New Jersey Administrative Code Title 8, Chapter 43G, Subchapter 6.8(c) states, "The body temperature of each patient under general or major regional anesthesia lasting 45 (forty-five) minutes or more shall be continuously monitored."

94. Defendant NBIMC's policy titled, "Anesthesia Safety Regulations" states that "the body temperature of each patient under anesthesia shall be continuously monitored" but it does not include the NJAC's requirement to document the patient's body temperature every fifteen (15) minutes.

95. Defendant NBIMC's anesthesiologists failed to continuously monitor and record Darryl Young's body temperature throughout his OHT surgery, in violation of New Jersey Administrative Code Title 8, Chapter 43G, Subchapter 6.8(c), as they recorded it every thirty (30) to forty-five (45) minutes throughout the ten (10) hour surgery.

96. Defendant NBIMC's perfusionists failed to include documentation in Darryl Young's corresponding perfusion records for the anesthesia records of his body temperature every fifteen (15) minutes, as required. Instead, his temperatures were recorded at irregular intervals exceeding fifteen (15) minutes.

FIRST COUNT
(MEDICAL MALPRACTICE)

97. Plaintiff repeats every paragraph of this Complaint.

98. Defendants Zucker, Camacho, Hochbaum, Vucicevic, Kapoor, Ju, Patel, Cavallo, Grgas, Paterek, Ramadan, Roc, and Does were negligent and deviated from accepted standards of practice in the care and treatment rendered to Plaintiff's decedent, Darryl Young, and caused him to sustain severe injuries, experience great pain and suffering, experience severe emotional distress and mental anguish, all of which were suffered by Plaintiff's decedent until the time of his death on September 12, 2022.

99. As a direct and proximate result of the negligence, carelessness, and deviations by Defendants from accepted standards of medical and other health care provider practice, medical, hospital and funeral expenses were incurred on behalf of Plaintiff's decedent.

100. As a direct and proximate result of the negligence, carelessness, and deviations from accepted standards of medical and other health care provider practice, those who were dependent upon Plaintiff's decedent for financial support, financial contribution, assistance, advice, guidance, counsel, household services and other matters have been and will in the future continue to be deprived of same.

101. This action is commenced within two years of the date of death of Plaintiff's decedent.

102. This action is brought pursuant to the Wrongful Death Act and the Survivorship Act.

WHEREFORE, Plaintiff ANDREA YOUNG, AS ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF DARRYL YOUNG, demands judgment against Defendants, NBIMC, RWJ, Zucker, Camacho, Hochbaum, Vucicevic, Kapoor, Ju, Patel, Cavallo, Grgas, Paterek, Ramadan, Roc, Does, and ABC jointly, severally or in the alternative for compensatory and punitive damages, interest, and costs of suit.

SECOND COUNT
(INVASION OF PRIVACY)

103. Plaintiff repeats every paragraph of this Complaint.

104. As medical providers to Plaintiff's Decedent, Defendants Zucker, Camacho, Hochbaum, Vucicevic, Kapoor, Ju, Patel, Cavallo, Grgas, Paterek, Ramadan, Roc, and Does were authorized to possess and did in fact lawfully possess certain medical information that was private and highly sensitive in nature. Said information was protected by, and said medical Defendants were bound by, the laws of the Health Insurance Portability and Accountability Act (HIPAA). Said Defendants providers thus were bound to a duty to protect the privacy rights of Plaintiff's decedent, and to ensure unlawful disclosure of private, highly sensitive health information did not occur.

105. During the time of Plaintiff's decedent's treatment and care at NBIMC, Defendants Zucker, Camacho, Hochbaum, Vucicevic, Kapoor, Ju, Patel, Cavallo, Grgas, Paterek, Ramadan, Roc, and Does inappropriately disclosed private, highly sensitive and otherwise protected medical information regarding medical diagnosis of Plaintiff's decedent without Plaintiff's decedent's proper consent, and did so to a third party, who without Plaintiff's decedent's consent, was not authorized to receive the information and to whom Plaintiff's decedent did not wish to disclose the information.

106. Said disclosure in violation of HIPAA was negligent, careless, reckless, willful and wanton, and further constituted an unlawful invasion of Plaintiff's decedent's privacy.

107. Defendants' publicized disclosure of Plaintiff's decedent's private and highly sensitive medical information that was of no legitimate concern to the public and was further highly offensive to Plaintiff's decedent and would be so offensive to anyone in Plaintiff's decedent's position.

108. Under information and belief, the negligent, reckless, careless, willful and wanton disclosure of Plaintiff's decedent's highly sensitive medical information has reached and continues to reach others in the public and the community.

109. As a result of the unlawful disclosure and invasion of privacy by Defendants described herein, Plaintiff's decedent's privacy rights have been violated causing harm.

WHEREFORE, Plaintiff ANDREA YOUNG, AS ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF DARRYL YOUNG, demands judgment against Defendants, NBIMC, RWJ, Zucker, Camacho, Hochbaum, Vucicevic, Kapoor, Ju, Patel, Cavallo, Grgas, Paterek, Ramadan, Roc, Does, and ABC jointly, severally or in the alternative for compensatory and punitive damages, interest, and costs of suit and for any other relief the Court deems just.

THIRD COUNT
(RESPONDEAT SUPERIOR - NBIMC)

110. Plaintiff repeats every paragraph of this Complaint.

111. Upon information and belief, at all times relevant hereto, Defendants Zucker, Camacho, Hochbaum, Vucicevic, Kapoor, Ju, Patel, Cavallo, Grgas, Paterek, Ramadan, Roc, and Does were actual employees, ostensible employees, agents and/or servants of NBIMC.

112. Defendant NBIMC is vicariously liable and vicariously responsible for the negligent acts and deviations from accepted standards of practice of their agents, ostensible agents, servants and/or employees, including Zucker, Camacho, Hochbaum, Vucicevic, Kapoor, Ju, Patel, Cavallo, Grgas, Paterek, Ramadan, Roc, and Does.

113. As a direct and proximate result of Defendants' aforesaid negligence, Plaintiff's decedent, Darryl Young, was caused to sustain severe injuries, experience great pain and suffering, experience severe emotional distress and mental anguish, until the time of his death on September 12, 2022.

WHEREFORE, Plaintiff ANDREA YOUNG, AS ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF DARRYL YOUNG, demands judgment against Defendants, NBIMC, RWJ, Zucker, Camacho, Hochbaum, Vucicevic, Kapoor, Ju, Patel, Cavallo, Grgas, Paterek, Ramadan, Roc, Does, and ABC jointly, severally or in the alternative for compensatory and punitive damages, interest, and costs of suit.

FOURTH COUNT
(RESPONDEAT SUPERIOR - RWJ)

114. Plaintiff repeats every paragraph of this Complaint.

115. Upon information and belief, at all times relevant hereto, Defendants Zucker, Camacho, Hochbaum, Vucicevic, Kapoor, Ju, Patel, Cavallo, Grgas, Paterek, Ramadan, Roc, and Does were actual employees, ostensible employees, agents, and/or servants of Defendant RWJ.

116. Defendant RWJ is vicariously liable and vicariously responsible for the negligent acts and deviations from accepted standards of practice of their agents, ostensible agents, servants, and/or employees, including Zucker, Camacho, Hochbaum,

Vucicevic, Kapoor, Ju, Patel, Cavallo, Grgas, Paterek, Ramadan, Roc, and Does.

117. As a direct and proximate result of Defendants' aforesaid negligence, Plaintiff's decedent, Darryl Young, was caused to sustain severe injuries, experience great pain and suffering, experience severe emotional distress and mental anguish, until the time of his death on September 12, 2022.

WHEREFORE, Plaintiff ANDREA YOUNG, AS ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF DARRYL YOUNG, demands judgment against Defendants, NBIMC, RWJ, Zucker, Camacho, Hochbaum, Vucicevic, Kapoor, Ju, Patel, Cavallo, Grgas, Paterek, Ramadan, Roc, Does, and ABC jointly, severally or in the alternative for compensatory and punitive damages, interest, and costs of suit.

FIFTH COUNT
(FAILURE TO MAINTAIN MEDICAL EQUIPMENT)

118. Plaintiff repeats every paragraph of this Complaint.

119. Defendants NBIMC and RWJ were negligent in failing to maintain its medical equipment used in the OHT and cardiac tamponade surgeries performed on Darryl Young in proper and safe working order.

120. As a direct and proximate result of Defendants' aforesaid negligence, Plaintiff's decedent, Darryl Young, was caused to sustain severe injuries, experience great pain and

suffering, experience severe emotional distress and mental anguish, until the time of his death on September 12, 2022.

WHEREFORE, Plaintiff ANDREA YOUNG, AS ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF DARRYL YOUNG, demands judgment against Defendants, NBIMC, RWJ, Zucker, Camacho, Hochbaum, Vucicevic, Kapoor, Ju, Patel, Cavallo, Grgas, Paterek, Ramadan, Roc, Does, and ABC jointly, severally or in the alternative for compensatory and punitive damages, interest, and costs of suit.

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all issues.

TRIAL COUNSEL DESIGNATION

Pursuant to R.4:25-4, Christian C. LoPiano, Esq. is hereby designated as trial counsel on behalf of Plaintiff.

DEMAND FOR INSURANCE COVERAGE

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

DEMAND FOR SPECIALTY/BOARD CERTIFICATION INFORMATION

Pursuant to the requirements set forth in Buck v. Henry, 207 N.J. 377 (2011), Plaintiff hereby demands that each Defendant in

his/her/its Answer to the Complaint set forth the specialty, if any, in which he/she/it was involved when rendering treatment to the Plaintiff.

DEMAND FOR TRANSCRIPTION

Plaintiff demands that each Defendant provide a typed transcription of all handwritten records or notes relating in any way to the Plaintiff's decedent within thirty (30) days of service of the complaint.

NOTICE TO VIEW OFFICES AND FILES

Pursuant to R.4:18-1, Plaintiff hereby demands that Plaintiff's legal representatives be permitted access to Plaintiff's decedent's original electronic personal health information, with metadata intact, in its original form, contained by Defendants within thirty (30) days of service of this Complaint for the purpose of inspecting and/or recording Plaintiff's decedent's original medical records, electronic protected health information, and the facilities' policies and procedures.

DEMAND FOR ACCESS TO PROTECTED HEALTH INFORMATION

Pursuant to 45 CFR §164.524, Plaintiff hereby demands access, within 30 days of the service of this request, to inspect and obtain copies of Plaintiff's decedent's electronic protected health information. This information includes all items maintained in the designated record set, including but not limited to billing records, medical records, medical imaging, audit logs, audit

trails, correspondence, alerts, messaging, documents relating to payment and claims adjudication, and any other document used, in whole or part, by Defendant(s) to make decisions about Plaintiff.

DEMAND FOR ACCOUNTING OF DISCLOSURES

Pursuant to 45 CFR §164.528, Plaintiff hereby demands, within 60 days of receipt of the service of this Complaint, an accounting of all disclosures of Plaintiff's protected health information for the years 2017-present.

DEMAND FOR PLEADINGS

Pursuant to R.1:5-1(A) & R.4:17-4(c), please take notice that Plaintiff hereby demands that each party herein serving pleadings and interrogatories and receiving answers thereto serve copies of all such pleadings, answering pleadings, answered subpoenas, answered interrogatories, and answered notices to produce from any party upon the undersigned attorney, and further take notice that this, as all discovery demands, is a continuing demand.

AFFIDAVIT OF MERIT

See attached Affidavit of Merits and CVs from NADER MOAZAMI, M.D. who is Board-Certified in Thoracic Surgery; GREGORY W. FISCHER, M.D. who is Board-Certified in Anesthesiology; and, DAVID WEILL, M.D. who is Board-Certified in Pulmonary Disease and served as the Medical Director of Heart and Lung Transplant Programs in Texas, Alabama and California. If any Defendant contends that any Affidavit of Merit fails to completely satisfy the requirements of

the Affidavit of Merit Statute in any way, demand is hereby made that the Defendant immediately notify Plaintiff of any such alleged deficiencies so that same may be corrected if necessary and within the time constraint of N.J.S.A. 2A:53A-26 et seq.

Pursuant to R.4:5B-4, you are required to serve the court and Plaintiff with any specific written objections to the Affidavit of Merit no less than 15 days before the initial Professional Malpractice Case Management Conference, commonly known as a Ferriera Conference, regarding the sufficiency of the affidavit of merit.

NOTICE OF PRESERVATION

Defendants are hereby placed on notice to preserve and maintain all relevant information. This includes medical records, scheduling records, sign-in and sign-out documentation, swipe logs, security videos, security logs, policies, procedures, rules and regulations, guidelines, by-laws, contracts, privileges authorizations, e-mails, intranet e-mails, Tigertexts, EpicChat messages, audit logs, Best Practice Advisories, Alerts, Ultrasounds, Radiological Information System data, Electronic health record data, and any other data related to Plaintiff.

REQUEST TO MEET AND CONFER ON ELECTRONICALLY STORED INFORMATION

Plaintiff, in the below notices to produce, has requested electronically stored information from Defendants. Pursuant to

R.4:10-2(f) and R.4:18-1, if there are any objections, limitations, or concerns held by Defendants, Plaintiff hereby requests a meeting or conversation to discuss those concerns. If Plaintiff does not receive a response to this request prior to the time required to respond to the notices to produce, which pursuant to R. 4:18-1(b)(2) is fifty (50) days after service of the summons and complaint, it will be accepted that Defendant(s) have refused to meet-and-confer with Plaintiff. This request includes an inspection of the electronic medical records and a request for all audit logs ("not just an access audit trail").

NOTICE TO ALL DEFENDANTS TO ANSWER FORM C and C(3) INTERROGATORIES

Pursuant to R.4:17-1 and Appendix II, please be advised that all Defendants, including entities, are required to respond to Form C and C(3) interrogatories within 60 days of the service of this Complaint.

Please Note: On September 1, 2022, the Form C and C(3) interrogatories were updated. As this matter was filed subsequent to that update, it should be those uniform questions that are responded to. Additionally, Uniform Form C(3) interrogatories apply to all Defendants involved in this matter. Therefore, all Defendants are required to respond to both Form C and C(3) uniform interrogatories.

Please Note: As explained by Judge Sabatino, in State v. Borjas, 436 N.J. Super 375 (App. Div. 2014), all references to the term document, documents, or document(s) include items containing words or images that are stored in computer files. This obviously includes text messages, e-mails, policies and procedures, audit trails, audit logs, swipe logs, RFID logs, digital images, digital films, videos, surveillance videos, audio recordings, phone call logs, phone call messages, and any other responsive item stored in reproducible or viewable form.

Please Note: All corporate entities are required by law to respond to fully and completely to interrogatories. R.4:17-4 requires any agent responding for a business to furnish all information available to the party, its agents, employees, and attorneys. Further, the agent shall designate the name and address of every person from whom information was obtained. Additionally, the agent shall designate by full description and location any documentary evidence that was reviewed in responding to interrogatories. Therefore, any statement that the business is an entity and has no knowledge is improper and will be deemed a non-response. Per Brugaletta v. Garcia, 234 N.J. 225 (2018), a motion will be filed seeking to strike your Answer and seek sanctions for "evasive or incomplete answer[s] given in response to a discovery request, such as an interrogatory."

Please Note: All responsive documents should be provided in original format. That format should include color items, be electronic if the original was such, and have metadata left intact. Any audit trails and audit logs should be provided in spreadsheet format, such as .xml or .xsls.

Please Note: Pursuant to R.4:10-2, if you are claiming any privilege or withholding any items that may be relevant, you are required to identify those items and produce a proper privilege log. As to the contents of the privilege log, please see Seacoast Builders Corporation v. Rutgers, 358 N.J. Super. 524 (App. Div. 2003).

Please Note: If Defendant is an entity, pursuant to R.4:17-4(a), the agent responding on behalf of the entity is required to furnish all information available to the party. This includes all information available to the party, the party's agents, employees, and attorneys. The person is also required to designate which information was not within the answerer's personal knowledge and state the name and address of every person from whom the information was received. Additionally, when the sources of information include documentation, a full description including the location is required to be provided with the response.

Please Note: Form C question 9 includes the statement electronic recording. Although this should be obvious, this would include any surveillance videos, intraoperative imaging,

intraoperative videos, audio recordings, e-mails, text messages, monitoring data, or any other type of recording made or maintained on an electronic device.

Please Note: Form C question 14 requires you to identify all documents that may relate to this action. First, this question does not limit the response to items in your possession. Second, the terms may and relate are commonly utilized in our vernacular. Yet, lately, many Defendants have been responding that they are confused as to what relate means. The term "relate" means to have a connection or to show or make a logical or causal connection between. The term "may" is used to indicate possibility. This would obviously include all items, whether electronic or physical, that possibly have a connection to the above-numbered issues in the Complaint. For example, contracts or employment agreements between the named Defendants, scheduling information, audits, audit logs, swipe logs, access logs, communications, e-mails, text messages, alerts, best practice advisories, reviews, call records, books, literature, references, radiological imaging, other images, video recordings, surveillance footage, RFID badges, surgical tags, medical record templates, access to the original electronic medical record, policies, procedures, guidelines, bylaws, manuals, credentialing files, privileges for Defendant(s), and other document(s) that may relate to the present action (as the Supreme Court-approved question states). If you object to the term "may

relate," please be advised that a motion to strike will be files and Plaintiff will seek costs and fees.

Please note: If you or your clients are confused as to the wording of the Supreme Court-approved uniform interrogatories, please feel free to contact me to discuss the terminology that you or your client are unfamiliar with.

Please note: Any improper objection to interrogatories will be met with a motion. Plaintiff will be seeking reasonable expenses, including attorney's fees, incurred by the necessity of making such a motion.

NOTICE TO PRODUCE DOCUMENTS

You are hereby requested to produce the below listed documents and/or items for purposes of discovery. This material will be examined and/or photocopied; computer-stored information will be printed on hard copy; magnetically recorded tapes will be copied or transcribed; and photograph negatives will be processed, and photographs reproduced. Said documents or tangible things are to be produced at the offices of LoPIANO LAW FIRM, 23 VREELAND ROAD, SUITE 110, FLORHAM PARK, NJ 07932 within fifty (50) days of the date of service hereof and supplemented thereafter in accordance with the New Jersey Civil Practice Rules.

1. A complete bate-stamped copy of all documents, writings, correspondence, emails, text messages, medical and billing records but not limited to, inpatient, outpatient, emergency room, clinic, operative, and pathology reports, photographs or any other type of record of any kind relating to donor heart transplanted in

Plaintiff's decedent on September 21, 2018.

2. A complete bate-stamped copy of notes, minutes, agenda, and list off all attendees at the weekly meetings where there was any discussion of the treatment of Plaintiff's decedent, Darryl Young to receive a heart transplant at NBIMC and his subsequent treatment and care.

3. The name, address, title, and medical specialty, if applicable, for each and every person who interviewed, treated and/or examined Plaintiff's decedent, Darryl Young, at any time at Defendants NBIMC and/or RWJ from January 1, 2016 through September 12, 2022.

4. Please provide written job descriptions for all Defendants, their supervisors, and trainers.

> *Note: The term "job description" means as it is defined by N.J.A.C. 8:43A-1.3, "written specifications developed for each position in the facility, containing the qualifications, duties and responsibilities, and accountability required of employees in that position."*

5. A complete bate-stamped copy of all medical records of Defendants NBIMC and/or RWJ in chronological order, of Plaintiff's decedent including, but not limited to, inpatient, outpatient, emergency room, clinic, operative and pathology reports, photographs or any other type of record of any kind relating to Plaintiff's decedent.

6. Plaintiff's decedent's entire original protected health information and the electronic medical records software's playground or practice portion of the electronic medical record application for inspection.

7. Copies of any hard copy format records that may exist relating to Plaintiff's decedent. This includes accession records, record binders, printed folders, patient charts, notes, or any other hard copy documentation contained outside of the electronic medical record.

8. Provide digital, color copies, in electronic format, all personal health information for Plaintiff's decedent that is in your possession.

> *Note: This request includes a request for all medical records, billing records, records and items used, in*

whole or part, by any covered entity, to make decisions about the past, present, or future care of plaintiff. This request includes all audit logs, access logs, radiology films, monitoring data, photographs, videos, neuromonitoring, e-mails, text messages, tiger texts, alerts, BPA alerts, in-basket messages, Epic Secure Chat messages, pharmacy records, emergency department records, handwritten records, consent forms, and other documents that fall under the New Jersey definition of medical records set forth in N.J.A.C. 8:43A-1.3 which states that medical records "means all records in the facility which pertain to the patient's health care." This also includes documents generated in any root cause analysis, all incident reports, morbidity and mortality reviews, and/or any other reviews performed relating to the care and treatment of plaintiff. If you wish to claim privilege, please provide the required privilege log detailed in R 4:10-2(e) with the details required by Seacoast Builders Corp v. Rutgers, 358 N.J. Super. 524 (App. Div. 2003).

*Of Further Note: When producing the audit logs, audit trails, or database exports, the request includes the entire audit trail in an Excel or database Format such as *.xlsx, *.xlsm, *.xls, *.xml, or *.csv.*

Be Aware: If any name, record, row, column, or other information is deleted or not produced, Plaintiff will file a motion to amend for concealment and seek sanctions. If the audit logs, audit trails, and database exports are unilaterally limited by you to the dates that Plaintiff was in the facility, Plaintiff will file a motion to amend for concealment and seek sanctions. Please be aware that any attempts to withhold documents, evidence, and other information will result in Plaintiff seeking sanctions. Additionally, identify the individual that provides the produced information and the parameters utilized in the production of the document(s) as required by R. 4:18-1.

9. Documents explaining and/or identifying medical abbreviations utilized at Defendant's facilities.

10. A copy of book the book entitled: Zucker MJ and Jaffe LM: Perioperative management of the patient with a mechanical circulatory support device or heart transplant. Soc Crit Care Med Monograph, in Press 2018.

11. A copy of the 250-page book(s) "used to teach residents about transplants" written by Dr. Zucker in 2017 and updated through 2019 as described in his deposition on page 33 taken on January 14, 2019.

12. The entire contents of any investigation file or files and any other documentary material in Defendants' possession relating to or referring to this cause of action (excluding references to mental impressions, conclusions, or opinions representing their value of merit of the claim or defense or respecting strategy or tactics and privileged communication from and to counsel).

13. Provide all communications and conversations, whether oral, written, typewritten, narrated, or otherwise delivered relating to the present litigation, subject matter of the present litigation, treatment and care rendered to Plaintiff's decedent, or about any parties to the present litigation.

Note: This request does not seek attorney-client communications. However, if any document(s) is/are withheld, for any other reason, please provide the required privilege log pursuant to R. 4:10-2(e). As explained by Judge Sabatino, in State v. Borjas, 436 N.J.Super 375 (App. Div. 2014), all references to the term document, documents, or document(s) include items containing words or images that are stored in computer files. This obviously includes e-mails, text messages, in-basket messages, alerts, best practice advisories, TigerText, EpicChat, Microsoft Teams, Zoom, intrahospital messaging systems, internet messaging systems, intranet messaging systems, or any other computer file whether generated on a phone, desktop, laptop, iPad, tablet, or any other electronic device. This request requires any metadata to remain intact on the provided copy to Plaintiff.

14. Any and all statements made by any party to this lawsuit, their agents, representatives, or employees, whether written or oral, which relate to or refer in any way to this cause of action.

15. Any and all statements concerning the action from all witnesses, including any statements from the parties herein, or their respective agents, servants, or employees.

16. Any and all statements made by any person other than witnesses or parties to this lawsuit, which relate to or refer in any way to the cause of action.

17. Any and all documents containing the names and home and business addresses of all individuals contacted as potential witnesses.

18. Provide copies of all materials that you provided, utilized, reviewed or showed to Plaintiff at any point.

Note: This request seeks the materials in original format, in color, with any metadata intact.

19. Copies of any and all insurance coverage covering the Defendants, including but not limited to, primary insurance policies, secondary insurance policies, reinsurance policies, umbrella policies, employment policies, or any other relevant policies. For each such policy of insurance, supply a copy of the policy.

Note: this is not a request for the declaration page but a request for a copy of the entire policy/policies.

20. Copies of any and all documentation, written notes, correspondence, written memoranda, minutes, reports, or any other recordings, whether oral, written, or recorded, whether electronically or in physical form, which were prepared by you, your agents, servants, employees, or anyone else, in reference to the care, treatment, or protected health information rendered to the care, treatment, or protected health information of Plaintiff's decedent by any health care provider.

21. All written reports rendered by Defendants proposed expert witnesses, including but not limited to any medical expert witnesses intended or not intended to be called at the time of trial.

22. All reports, memoranda, qualifications, and curriculum vitae or any other documents provided by an expert witness retained by Defendants or anyone acting on Defendants' behalf.

23. Any and all books, treatises, commentaries, reports, statutes, codes, ordinances, rules, regulations, or other published documents referred to and utilized by or relied upon by any expert witness who Defendants intend to call at the time of trial.

24. Any and all correspondence, writings of any nature, books, treatises, commentaries, reports, statutes, codes, ordinances, rules, regulations, or other published documents to be utilized on behalf of any Defendant for any purpose including but not limited to cross-examination of any witness at the time of trial.

25. Any and all documents, writings, correspondence, diagrams, maps, charts, graphs, videotapes to be used on behalf of any Defendant for any purpose including but not limited to cross-examination of any witness at the time of trial.

26. Copies of all notes, summaries, writings, letters, reports, statements from any expert who may testify at trial in the within matter on behalf of Defendants.

27. Copies of all pleadings and motions filed by Defendants in this matter.

28. Copies of transcripts of all depositions noticed by Defendants in this action, prior to the involvement of Defendants in this matter.

29. All photographs, videos, blueprints, charts, drawings, maps, plans, models, or diagrams utilized or prepared of the treatment rendered by Defendants to Plaintiff's decedent or any instrumentality involved herein.

30. Copies of any incident reports, investigation documentation, accident reports, e-mails, text messages, review documentation, peer review documentation, quality review documentation, Patient Safety Act documentation, morbidity and mortality conference documentation, OneLink documentation, Verge documentation, or any other documentation relating to reviews, investigations, reporting, or analyzing the care, treatment, and circumstances relating to Plaintiff's decedent.

Please Note: If you claim privilege on any documents, provide the required privilege log pursuant to R. 4:10-2(e) expressly identifying the description of the document, communication, or things not produced. This privilege log shall contain the description with specificity as to each document withheld. See Seacoast Builders Corp. v. Rutgers, 358 N.J. Super 524 (App. Div. 2003). You are required to provide a specific explanation of why each document is privileged or immune

from discovery which must include a comprehensive presentation of all factual grounds and legal analyses in a non-conclusory fashion.

31. Copies of all recorded logs, for the timeframes that Plaintiff's decedent was a patient at your facility, including audit logs, call bell logs, swipe logs, access/egress logs, scheduling logs, department logs, catheterization lab logs, sign-in or sign-out logs, and any other logs in your possession regarding named Defendant(s) or Plaintiff's decedent.

32. Copies of all information and documents including but not limited to medical guidelines referred to by Mr. Ostrowsky in his statement that Defendant NBIMC's and/or Defendant RWJ's "initial review of this complicated case indicates information that conflicts with the reporting [and that] records we have reviewed confirm that the care this patient received was appropriate and in keeping with medical guidelines."

33. Any and all radiological imaging of Plaintiff's decedent in your possession.

34. Any and all video recordings where Plaintiff's decedent is depicted or referenced. This includes surveillance video, security video, video in the operating room, and video in the waiting area.

35. A complete copy of any reports of any review of any aspect of the care and treatment of Plaintiff's decedent, including but not limited to any Quality Assurance, Continuous Quality Control or similar committees, or any Morbidity, Mortality or similar committees.

36. A complete copy of any records or reports forwarded to the Joint Commission on Hospital Accreditation related to Plaintiff's decedent, including reports or records related to Sentinel Events concerning the Defendants' care and treatment of Plaintiff's decedent.

37. A complete copy of any records or reports forwarded to the New Jersey Department of Health and Senior Services related to Plaintiff's decedent, including reports or records related to any adverse events concerning the Defendants' care and treatment of Plaintiff's decedent.

38. Every written document, including handwritten and electronic documents, which relates in any way to any review,

consideration or investigation of any medical treatment, procedure, examination, lab and pathology testing, operation, or care given or performed upon Plaintiff's decedent.

39. Copy of Dr. Zucker's, Dr. Camacho's, Dr. Hochbaum's, Dr. Vucicevic's and Dr. Kapoor's personal notes, writings, records, emails or memoranda of all conversations they had with anyone regarding the treatment and care of Plaintiff's decedent.

40. Any and all documentation relating to the notification of Plaintiff's decedent or any representative of the Plaintiff's decedent of any "serious preventable adverse event" as defined by the Patient Safety Act, N.J.S.A. 26H:2h-12.23 to 12.25. This request includes patient safety plans; reports; documentation and notification that Plaintiff was made aware of all adverse events that are relevant to the subject matter of this litigation as defined by the above referenced statute.

41. All documents and materials relating to Defendants' process and procedures for investigating adverse events that occur when rendering care and treatment to a patient in 2018-2022.

42. All documents and materials relating to the investigations conducted by the United States Attorney's Office for the District of New Jersey ("USAO"), the New Jersey Attorney General's Office ("NJAG") representing the New Jersey Board of Medical Examiners ("BOARD"), Department of Health and Human Services Centers for Medicare & Medicaid Services, and the New Jersey Department of Health ("NJDOH").

CREDENTIALS

43. A complete bate-stamped copy of all records in the credentialing files of all Defendants at NBIMC, and/or RWJ regarding any privileges to practice medicine and any documents relating to the application, approval, review and termination of any such privileges.

44. A true and complete copy of all policies and procedures manual/handbook of NBIMC and/or RWJ regarding any privileges to practice medicine and any documents relating to the application, approval, review, and termination of any such privileges.

45. A complete list of all operative procedures performed by each Defendant at NBIMC and/or RWJ excluding any personal identifiers for all patients and the outcomes for each patient from January 1, 2018 through December 31, 2022.

46. A complete copy of the list maintained of each Defendants' heart transplant patients that died in the years 2018-2022 redacting all patients' names other than Plaintiff's decedent.

47. A complete itemized record of all itemized billing submitted by or on behalf of each of the Defendants to Centers for Medicare and Medicaid Services ("CMS"), any insurance companies or to the Plaintiffs in connection with the treatment and care of Plaintiff's decedent.

48. A complete bate-stamped copy of the personnel files of all Defendants.

CONTRACTS

49. Provide all contracts, agreements, or other documents that govern the business relationship between/among Defendants in effect from January 1, 2018 through December 31, 2022.

50. A complete bate-stamped copy of all employment contracts between/among all Defendants that were in effect from January 1, 2018 through December 31, 2022.

PROTOCOLS

51. All protocols, policies, procedures, guidelines or other written procedure(s) maintained by any department at Defendants NBIMC and/or RWJ with respect to the treatment of a patient who undergoes a heart transplant in September 2018.

52. All protocols (whether written or oral), rules, regulations, bylaws, procedures, manuals, or other documents maintained by any department at Defendants NBIMC and/or RWJ which in any way instruct, govern, or relate to the evaluation, diagnosis, treatment, and care of patients experiencing complications during or following open heart transplant ("OHT") in September 2018.

53. All protocols, policies, procedures, or guidelines or other written procedure(s) maintained by any department at Defendants NBIMC and/or RWJ with respect to communication with OHT patients and their authorized representatives and/or family members in September 2018 of the patient's status, expected

clinical trajectory and treatment options.

54. All protocols, policies, procedures, or similar documents maintained by any department at Defendants NBIMC and/or RWJ which in any way relate to the documentation and maintenance of a patient's records regarding evaluation, consultation, and/or treatment of OHT patients that existed in September 2018.

55. All protocols, policies, procedures, guidelines or other written procedure(s) maintained by any department at Defendants NBIMC and RWJ the monitoring of a patient during OHT in or about September 2018.

56. Please provide all relevant bylaws, guidelines, rules and regulations, policies, and procedures regarding:

a. Documents regarding written objectives of medical record department/system.

b. Documents regarding organizational plan for medical records.

c. Documents regarding quality assurance program for medical records.

d. Documents containing the time frame for completing medical records.

e. Documents governing the procedures for medical records.

f. Documents governing the timeframes for preserving the medical records. (8:43A-13.6)

g. Documentation defining your legal medical record.

h. Documentation defining the designated record sets.

i. Documentation of the title of the person(s) or office(s) responsible for receiving and processing requests for access by individuals.

j. Documents regarding the rights of patients.

k. Uniform system of protocols and procedures used throughout the facility for conducting patient

assessments.

l. Documents regarding obtaining and recording informed consent.

m. All bylaws, policies, and procedures.

57. Any and all records from CMS regarding its investigation of NBIMC's heart and lung transplant program including its determination that NBIMC was putting patients in "immediate jeopardy.

58. Any and all records, policies, procedures, protocols and corrective measures implemented by NBIMC in response to CMS' determination that NBIMC was putting patients in "immediate jeopardy."

59. Any and all letters, reports, records or writings of any kind sent by CMS on or about December 12, 2019, to NBIMC or its representatives involving CMS' determination that the transplant program repeatedly failed to fix mistakes where there were a series of incidents in which NBIMC identified areas for improvement allowing "subsequent adverse events to occur."

60. Any and all letters, reports, records submitted to the FBI, CMS, Federal and NJ state agencies by or on behalf of NBIMC and/or RWJ in response any investigations of NBIMC's heart and lung transplant program.

61. Complete copies of the disclosures, documents, information, communications, and other items related to Plaintiff's decedent provided to the State of New Jersey, New Jersey Department of Health and Senior Services, National Practitioner's Database, and any other third-party non-treating physician.

62. Any and all letters, reports, or records from Centers for Medicare and Medicaid Services regarding any review or investigation of NBIMC's heart and lung transplant program, including but not limited to two reports sent on December 12, 2019.

63. Any and all letters, reports, or records from New Jersey Department of Health regarding any review or investigation of NBIMC's heart and lung transplant program.

64. Any and all letters, reports, or records from New Jersey Assembly's Health and Senior Services Committee regarding any review or investigation of NBIMC's heart and lung transplant

program.

65. Any and all letters, reports, or records from New Jersey Attorney General regarding any review or investigation of NBIMC's heart and lung transplant program.

66. Any and all letters, reports, or records from New Jersey Board of Medical Examiners regarding any review or investigation of NBIMC's heart and lung transplant program.

67. A copy of the report prepared by the "nationally ranked transplant firm" hired by RWJ to review NBIMC's transplant team's leadership and operations, as described by Barry Ostrowsky, chief executive of the hospital's affiliated network, RWJ Barnabas Health in a letter to New Jersey lawmakers in or about October 2019.

68. A copy of a letter dated July 29, 2019 written by Dr. Zucker and Dr. Camacho to New Jersey cardiologists based on heart transplants from May 2018 to May 2019 stating, "outcomes remain excellent at 98% survival rate for the past 48 transplants."

69. All documents reviewed and relied upon by Dr. Zucker and Dr. Camacho supporting their statement "outcomes remain excellent at 98% survival rate for the past 48 transplants" at NBIMC from May 2018 to May 2019 in their letter dated July 29, 2019 to New Jersey cardiologists.

70. Any and all records, letters and communications by NBIMC and/or its representatives, including but not limited to the statement of NBIMC spokeswoman Linda Kamateh stating that NBIMC did not agree with all of CMS' findings, that NBIMC did not warrant the "immediate jeopardy" designation and a copy of the plan referred to by Ms. Kamateh and any or all records designed to lift designation submitted on or around December 15, 2019 to remove the "immediate jeopardy" label.

ELECTRONIC HEALTH RECORD ("EHR")

71. Any and all materials identifying the vendor and any information system(s) utilized by Defendants from 2018-2022, including general medical EHRs, registration/ admission/discharge information systems, etc., that administrative personnel and clinicians who cared for Plaintiff's decedent used or interacted with for registration, treatment, data entry, and data review. (By way of example, "PICIS Pulsecheck ED EHR", "GE Centricity EHR", and "Meditech EHR" illustrate the form of responses sought.

72. Complete printout of the patient records contained within the information systems identified, certified as true and complete by the medical records or health information management custodian or person responsible for such certifications at your facility.

73. Any and all materials identifying all audit log data (such as user ID, date and time of access, actions performed such as read, print, edit, user location, etc.) that exists in all EHRs or computer-based medical devices identified in #57 above from January 1, 2018 through December 31, 2022.

74. All audit log data identified in response to #59 above, in the form of a chronological, searchable, and sortable Excel spreadsheet.

75. Please provide all audit logs from the PACS, RIS, and other radiological systems relating to Plaintiff's decedent.

76. Please provide documents recording all Defendants and co-Defendants activity, during the timeframe Plaintiff's decedent was a patient, from Defendant's identification system for employees, volunteers, and medical staff controlling access to and egress from the facility including security logs, RFID logs, and/or swipe logs for the entrance, exiting, and movement.

77. Any and all materials identifying edits, modifications and changes to chart notes and other data, including whether edits or changes were made, when, by whom, and what the notes or other data looked like before and after edits (that is, a version history of the notes and other data). If the audit log does not contain this information, specify how this information can be obtained.

78. Any and all materials identifying the person(s) who retrieved the audit log(s), what computer actions, queries or screens were used to produce it/them, and if any filters (data retrieval restrictions) were utilized at time of its generation that removed any available data from the production.

79. Any and all materials relevant to understanding the audit log(s), including definition lists and EHR technical manuals necessary to interpret the audit log column labels, abbreviations, times, format, content, etc.

80. Any and all materials reflecting any changes/upgrades that have occurred in Defendants' EHRs since Plaintiff's decedent's last visit at Defendants that could affect or change

the clinical data or audit log data as reproduced in response to these requests in any way.

REQUEST FOR ADMISSIONS

Pursuant to Rule 4:22-1 Plaintiff hereby requests of Defendants within forty-five (45) days, after service of this request, to make the following admissions for the purpose of this action subject to pertinent objections to admissibility which may be interposed at the time of the Trial.

1. Upon admission to undergo the open-heart transplant surgery at Defendant NBIMC, Darryl Young was not provided with an "Advance Directive for Health Care" pursuant to Defendant NBIMC's policy.

2. At the time of Darryl Young's admission on September 21, 2018, Defendant NBIMC's policy with respect to an Advance Directive for Health Care provides, "an inquiry will be made of each adult patient, at the time of admission [ ] concerning the existence and location of an Advance Directive for Health Care. If the patient is incapable of responding to this inquiry, the medical center will ask the family or person with knowledge of the patient."

3. Prior to the open-heart transplant surgery, Darryl Young was not informed that the heart he would receive came from a donor known to be classified as "HIGH RISK."

4. Darryl Young did not execute a written consent to receive a heart from a donor known to be classified as "HIGH RISK."

5. At the time of the open-heart transplant surgery at Defendant NBIMC, Darryl Young received a heart from a donor who was classified as "HIGH RISK."

6. Prior to undergoing OHT at Defendant NBIMC on September 21, 2018, Darryl Young did not have any brain damage.

7. Darryl Young did not have any increased risk factors to suffer complications from the OHT.

8. Darryl Young did not have any increased risk factors to sustain brain damage as result of the OHT.

9. Darryl Young suffered brain damage because of the OHT performed at NBIMC on September 21, 2018.

10. Darryl Young suffered brain damage because of the cardiac tamponade surgery performed at NBIMC on September 22, 2018.

11. The TEAM made specific decisions to not offer options such as hospice and do not resuscitate ("DNR") to OHT certain patients and their families because they wanted to make sure the patients survived at least one-year following OHT at NBIMC.

12. The TEAM did not offer hospice and "DNR" to Darryl Young and his family because they wanted to make sure Plaintiff's decedent survived at least one-year following OHT at NBIMC.

13. At TEAM meetings at NBIMC in or about April 2019, Defendant Zucker told his staff, "You can send him back to a rehab facility, but if you make him DNR at the rehab facility – they will make him DNR – it'll be a problem for us. [ ] So, I don't really know what to do except tell you that I recognize what I'm asking, I said myself I'm not sure that it is ethical, moral or right, but for the global good of the future transplant recipients, the others who come along, this program can't be put into an SIA."

14. During a TEAM meeting conducted at NBMIC in April 2019, Defendant Zucker told the TEAM that the TEAM do whatever is necessary to keep Plaintiff's decedent and other OHT patients alive for at least one-year following their OHTs to boost the TEAM'S program's survival statistics.

15. At a TEAM meeting at Defendant NBIMC in or about May of 2019, Defendant Zucker said that Darryl Young "unfortunately became the seventh potential death in a very bad year, all right, and that puts us into a very difficult spot."

16. At TEAM meetings at NBIMC in or about May of 2019, Defendant Zucker said, "The is a very, very unethical, immoral but unfortunately very practical solution, because the reality

here is you haven't saved anybody if your program gets shut down."

17. At TEAM meetings at NBIMC in or about May of 2019, Defendant Camacho stated, "a lot of you weren't here for our first lung transplant when we reopened, after we reopened. The first lung transplant patient stayed at the hospital until day 266, was sent out to rehab and died that day."

18. Defendant NBIMC did not perform a Patient Safety Act review of the care rendered to Darryl Young.

REJECTION OF NOTICES OF ALLOCATION

Plaintiff expressly rejects any notice of allocation asserted by any Defendants, whether made in Defendants' Answer or otherwise, unless the basis and details of such claim of allocation is specifically provided and such claim of allocation is properly supported with adequate and sufficient expert reports/opinion in a timely manner during the period of discovery, as required by the Rules of Court and by case law, including but not limited to, Young v. Latta, 123 N.J. 584 (1991).

RULE 4:5-1 CERTIFICATION

I hereby certify that to the best of my knowledge the matter in controversy is not the subject of another action pending in any Court or of a pending arbitration proceeding and that no other parties are necessary to join at this time.

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

LoPIANO LAW FIRM

BY: *Christian C. LoPiano /s/*
CHRISTIAN C. LoPIANO, ESQ.
Attorneys for Plaintiff

DATED: September 11, 2024

CHRISTIAN C. LoPIANO, ESQ.
ATTORNEY ID NO.: 023931991
LoPIANO LAW FIRM
23 VREELAND ROAD, SUITE 110
FLORHAM PARK, NJ 07932
(201) 798-8300
Attorneys for Plaintiff

ANDREA YOUNG, AS ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF DARRYL YOUNG, Plaintiff, -vs- MARK J. ZUCKER, M.D.; MARGARITA CAMACHO, M.D.; NATALIA HOCHBAUM, M.D.; DARKO VUCICEVIC, M.D.; SAURABH KAPOOR, M.D.; ALBERT JU, M.D.; NIMESH PATEL, M.D.; CAROLYN CAVALLO; LINDA GRGAS; ALLYSON PATEREK; ADAM RAMADAN; DIANA ROC; NEWARK BETH ISRAEL MEDICAL CENTER; RWJ BARNABAS HEALTH; JOHN/JANE DOE 1-50 (fictitious names representing unknown entities, physicians, nurses, technicians, medical providers, and caretakers involved in the care, treatment, management and diagnosis of Plaintiff's decedent, DARRYL YOUNG), and ABC COMPANY 1-50 (fictitious names representing unknown entities, medical facilities and/or medical groups who were involved in the care and treatment of Plaintiff's decedent, DARRYL YOUNG), Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION - ESSEX COUNTY DKT NO.: ESX- CIVIL ACTION **AFFIDAVIT OF MERIT** **(N.J.S.A. 2A:53A-26)**

NADER MOAZAMI, M.D. of full age, being duly sworn according to law, upon his oath, deposes and says:

1. I am a licensed physician in the State of New York, as defined by N.J.S.A. 2A:53A-26.

2. I am board-certified in the field or specialty of Thoracic Surgery and have practiced Thoracic Surgery for at least

five (5) years which is the specialty and/or subspecialty at issue in this action.

3. During the year immediately preceding the date of the occurrence that is the basis for the claim or action, I have devoted a majority of my professional time to the active clinical practice of Thoracic Surgery and the instruction of students from accredited medical schools and residency programs in Cardiothoracic Surgery.

4. I have no financial interest in the outcome of this case.

5. Based upon the materials I reviewed associated with this claim, there is a reasonable probability that the care, skill or knowledge exercised or exhibited in the treatment rendered to decedent, DARRYL YOUNG by MARGARITA CAMACHO, M.D., NEWARK BETH ISRAEL MEDICAL CENTER and RWJ BARNABAS HEALTH fell outside acceptable professional or occupational standards or treatment practices.

I HEREBY CERTIFY that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Nader Moazami

NADER MOAZAMI, M.D.

Sworn to and Subscribed
before me this 3rd day of September, 2024

~~Notary Public~~
Attorney at Law - State of NJ

NOTICE:

If any Defendant contends that this Affidavit of Merit fails to completely satisfy the requirements of the Affidavit of Merit Statute and/or The New Jersey Medical Care Access and Responsibility and Patients First Act of 2004, *N.J.S.A.* 2a:53a-38 *et. seq.* in any way, demand is hereby made that the defendant immediately notify the Plaintiffs of any such alleged deficiencies so that same may be corrected if necessary and within the time constraint of *N.J.S.A.* 2A:53A-26 *et. seq.*

CHRISTIAN C. LoPIANO, ESQ.
ATTORNEY ID NO.: 023931991
LoPIANO LAW FIRM
23 VREELAND ROAD, SUITE 110
FLORHAM PARK, NJ 07932
(201) 798-8300
Attorneys for Plaintiff

ANDREA YOUNG, AS ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF DARRYL YOUNG, Plaintiff, -vs- MARK J. ZUCKER, M.D.; MARGARITA CAMACHO, M.D.; NATALIA HOCHBAUM, M.D.; DARKO VUCICEVIC, M.D.; SAURABH KAPOOR, M.D.; ALBERT JU, M.D.; NIMESH PATEL, M.D.; CAROLYN CAVALLO; LINDA GRGAS; ALLYSON PATEREK; ADAM RAMADAN; DIANA ROC; NEWARK BETH ISRAEL MEDICAL CENTER; RWJ BARNABAS HEALTH; JOHN/JANE DOE 1-50 (fictitious names representing unknown entities, physicians, nurses, technicians, medical providers, and caretakers involved in the care, treatment, management and diagnosis of Plaintiff's decedent, DARRYL YOUNG), and ABC COMPANY 1-50 (fictitious names representing unknown entities, medical facilities and/or medical groups who were involved in the care and treatment of Plaintiff's decedent, DARRYL YOUNG), Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION – ESSEX COUNTY DKT NO.: ESX- CIVIL ACTION **AFFIDAVIT OF MERIT** **(N.J.S.A. 2A:53A-26)**

DAVID WEILL, M.D. of full age, being duly sworn according to law, upon his oath, deposes and says:

1. I am a licensed physician in the States of Louisiana and Florida, as defined by N.J.S.A. 2A:53A-26.

2. I am board-certified in the field or specialty of Pulmonary Disease and have practiced in this specialty for at least five (5) years which is the specialty and/or subspecialty at issue in this action.

3. During my career, I have served as the Medical Director of Heart and Lung Transplant Programs at Medical City Hospital in Dallas, TX, University of Alabama at Birmingham, Stanford University Medical Center, and Stanford University School of Medicine.

4. During the year immediately preceding the date of the occurrence that is the basis for the claim or action, I have devoted a majority of my professional time to the active clinical practice of Internal Medicine, Pulmonary Disease and Critical Care Medicine and the instruction of students from accredited medical schools and residency programs in Internal Medicine, Pulmonary Disease and Critical Care Medicine.

5. I have no financial interest in the outcome of this case.

6. Based upon the materials I reviewed associated with this claim, there is a reasonable probability that the care, skill or knowledge exercised or exhibited in the treatment rendered to decedent, DARRYL YOUNG by NEWARK BETH ISRAEL MEDICAL CENTER, RWJ BARNABAS HEALTH, MARK J. ZUCKER, M.D., NATALIA HOCHBAUM, M.D., and DARKO VUCICEVIC, M.D fell outside acceptable professional or occupational standards or treatment practices.

I HEREBY CERTIFY that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

David Weill

DAVID WEILL, M.D.

Sworn to and Subscribed
before me this 5th day of September, 2024

Christian C. LoPiano, Esq.
Attorney at Law - State of NJ

NOTICE:

If any Defendant contends that this Affidavit of Merit fails to completely satisfy the requirements of the Affidavit of Merit Statute and/or The New Jersey Medical Care Access and Responsibility and Patients First Act of 2004, *N.J.S.A.* 2a:53a-38 *et. seq.* in any way, demand is hereby made that the defendant immediately notify the Plaintiffs of any such alleged deficiencies so that same may be corrected if necessary and within the time constraint of *N.J.S.A.* 2A:53A-26 *et. seq.*

CHRISTIAN C. LoPIANO, ESQ.
ATTORNEY ID NO.: 023931991
LoPIANO LAW FIRM
23 VREELAND ROAD, SUITE 110
FLORHAM PARK, NJ 07932
(201) 798-8300
Attorneys for Plaintiff

ANDREA YOUNG, AS ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF DARRYL YOUNG, Plaintiff, -vs- MARK J. ZUCKER, M.D.; MARGARITA CAMACHO, M.D.; NATALIA HOCHBAUM, M.D.; DARKO VUCICEVIC, M.D.; SAURABH KAPOOR, M.D.; ALBERT JU, M.D.; NIMESH PATEL, M.D.; CAROLYN CAVALLO; LINDA GRGAS; ALLYSON PATEREK; ADAM RAMADAN; DIANA ROC; NEWARK BETH ISRAEL MEDICAL CENTER; RWJ BARNABAS HEALTH; JOHN/JANE DOE 1-50 (fictitious names representing unknown entities, physicians, nurses, technicians, medical providers, and caretakers involved in the care, treatment, management and diagnosis of Plaintiff's decedent, DARRYL YOUNG), and ABC COMPANY 1-50 (fictitious names representing unknown entities, medical facilities and/or medical groups who were involved in the care and treatment of Plaintiff's decedent, DARRYL YOUNG), Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION - ESSEX COUNTY DKT NO.: ESX- CIVIL ACTION **AFFIDAVIT OF MERIT** **(N.J.S.A. 2A:53A-26)**

GREGORY W. FISCHER, M.D. of full age, being duly sworn according to law, upon his oath, deposes and says:

1. I am a licensed physician in the State of New York, as defined by N.J.S.A. 2A:53A-26.

2. I am board-certified in the field or specialty of Anesthesiology and have practiced Anesthesiology for at least five

(5) years which is the specialty and/or subspecialty at issue in this action.

3. During the year immediately preceding the date of the occurrence that is the basis for the claim or action, I have devoted a majority of my professional time to the active clinical practice of Anesthesiology and the instruction of students from accredited medical schools and residency programs in Anesthesiology.

4. I have no financial interest in the outcome of this case.

5. Based upon the records which I have reviewed and/or the facts of this matter, there is a reasonable probability that the care, skill or knowledge exercised or exhibited in the treatment rendered to decedent, DARRYL YOUNG by ALBERT JU, M.D., NIMESH PATEL, M.D., NEWARK BETH ISRAEL MEDICAL CENTER and RWJ BARNABAS HEALTH fell outside acceptable professional or occupational standards or treatment practices.

I HEREBY CERTIFY that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

GREGORY W. FISCHER, M.D.

Sworn to and Subscribed
before me this 5 day of September, 2024

Nicola Phillips-Tate
Notary Public

NICOLA A PHILLIPS-TATE
Notary Public - State of New York
NO. 01PH6388833
Qualified in Queens County
My Commission Expires Mar 18, 2027

NOTICE:

If any Defendant contends that this Affidavit of Merit fails to completely satisfy the requirements of the Affidavit of Merit Statute and/or The New Jersey Medical Care Access and Responsibility and Patients First Act of 2004, *N.J.S.A.* 2a:53a-38 *et. seq.* in any way, demand is hereby made that the defendant immediately notify the Plaintiffs of any such alleged deficiencies so that same may be corrected if necessary and within the time constraint of *N.J.S.A.* 2A:53A-26 *et. seq.*

Civil Case Information Statement

Case Details: ESSEX | Civil Part Docket# L-006255-24

Case Caption: YOUNG ANDREA VS ZUCKER, M.D. MARK
Case Initiation Date: 09/11/2024
Attorney Name: DREW M PRATKO-RUCANDO
Firm Name: LOPIANO LAW FIRM
Address: 23 VREELAND RD STE 110
FLORHAM PARK NJ 07932
Phone: 2017988300
Name of Party: PLAINTIFF : YOUNG, ANDREA
Name of Defendant's Primary Insurance Company (if known): Unknown

Case Type: MEDICAL MALPRACTICE
Document Type: Complaint with Jury Demand
Jury Demand: YES - 12 JURORS
Is this a professional malpractice case? YES
Related cases pending: NO
If yes, list docket numbers:
Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO
Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: ANDREA YOUNG? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO
If yes, please identify the requested accommodation:

Will an interpreter be needed? NO
If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO **Medical Debt Claim?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

09/11/2024
Dated

/s/ DREW M PRATKO-RUCANDO
Signed