

their counsel, Dennis E. Boyle, Esquire, Randall L. Wenger, Esquire, and the firm of Boyle, Neblett & Wenger, and aver as follows:

INTRODUCTION

1. This case involves 18 year old Gregory Jacobs (hereinafter “Gregory”), who was intentionally killed at Hamot Hospital so that his organs could be harvested. In fact, he experienced neither a cessation of cardiac activity nor a cessation of brain activities when surgeons began the procedures for removing his vital organs. But for the intentional trauma or asphyxiation of Gregory Jacobs, he would have lived, or, at the very least, his life would have been prolonged.

2. Compensable damages in an amount in excess of \$5,000,000.00 are sought on account of, among other things, Gregory’s pain and suffering, his loss of life’s pleasures, the loss of future income, medical bills, and funeral expenses.

3. Punitive damages are sought due to Defendants’ outrageous behavior that evidences willful, wanton, and reckless conduct.

JURISDICTION AND VENUE

4. Jurisdiction is founded upon 28 U.S.C. §1332 due to diversity of citizenship since the Plaintiffs are residents of the State of Ohio and the Defendants are all residents of the Commonwealth of Pennsylvania and since the amount in controversy exceeds \$75,000.00.

5. Venue for this action properly lies in the Western District of Pennsylvania pursuant to 28 U.S.C. §1391(b) as Defendants reside or have a place of business within this Judicial District, and all or substantially all of the events that give rise to the claims in this action occurred within this District.

PARTIES

6. Plaintiffs are Michael B. Jacobs, individually and as Administrator of the Estate of Gregory Jacobs, and Teresa A. Jacobs. They are the natural parents of Gregory Jacobs and live in Bellevue, Ohio, as did Gregory before his death.

7. Defendant, The Center for Organ Recovery & Education (hereinafter “CORE”), is a corporation with its principal place of business at 204 Sigma Drive, RIDC Park, Pittsburgh, Pennsylvania. It directed the treatment and care of Gregory

which lead to and hastened his death. CORE worked through its employees and agents, including Jonathan Coleman.

8. Defendant, Jonathan Coleman, is an employee or agent of CORE, which is located at 204 Sigma Drive, RIDC Park, Pittsburgh, Pennsylvania.

9. Defendant, Hamot Medical Center of the City of Erie, Pennsylvania (hereinafter "Hamot"), is a corporation with its principal place of business at 201 State Street, Erie, Pennsylvania. The treatment and care by Hamot and its medical staff lead to and hastened Gregory Jacobs' death. Hamot worked through its employees and agents, including its physicians, nurses, therapists, and other employees.

10. Defendant, William R. Phelps, M.D., is a licensed medical professional with a business office at 300 State Street, Erie, Pennsylvania. Plaintiffs are asserting claims, including a professional liability claim, against this Defendant. He was, during all relevant times, an agent of Hamot Medical Center. At all pertinent times, he held himself out as possessing training and skill as a surgeon and devotes his professional attention to employing those skills for a fee.

11. Defendant, Peter Pahapill, M.D., is a licensed medical professional with offices at 1082 Derry Woods Drive, Hummelstown, Pennsylvania. Plaintiffs are

asserting claims, including a professional liability claim, against this Defendant. He was, during all relevant times, an agent of Hamot Medical Center. At all pertinent times, he held himself out as possessing training and skill as a neurosurgeon and devotes his professional attention to employing those skills for a fee.

12. Defendant, Jeffrey Bednarski, M.D., is a licensed medical professional with offices at 104 E 2nd St., 7th Floor, Erie, Pennsylvania. Plaintiffs are asserting claims, including a professional liability claim, against this Defendant. He was, during all relevant times, an agent of Hamot Medical Center. At all pertinent times, he held himself out as possessing training and skill as a surgeon and devotes his professional attention to employing those skills for a fee.

13. Defendant, Roberto Lopez, M.D., is a licensed medical professional with offices at 3459 Fifth Avenue, Pittsburgh, Pennsylvania. Plaintiffs are asserting claims, including a professional liability claim, against this Defendant. At all pertinent times, he held himself out as possessing training and skill as a transplant surgeon and devotes his professional attention to employing those skills for a fee

14. Defendant, Ruy Cruz, M.D., is a licensed medical professional with offices at 3459 Fifth Avenue, Pittsburgh, Pennsylvania. Plaintiffs are asserting claims, including a professional liability claim, against this Defendant. At all pertinent times,

he held himself out as possessing training and skill as a transplant surgeon and devotes his professional attention to employing those skills for a fee.

15. Defendant, Emergycare, Inc. (hereinafter “Emergycare”), is a corporation with a principal place of business at 1701 Sassafras Street, Erie, Pennsylvania. Working through its employees and agents, including pilots, paramedics, first responders, nurses, and other medical employees, it ran the air ambulance service which transported Gregory Jacobs to Hamot Medical Center.

16. At all relevant times, Defendants acted through and by their agents, servants, workmen and employees, who were acting within the scope of their employment, agency, and servanthip.

FACTUAL BACKGROUND

17. On March 8, 2007, Gregory Jacobs, a high school student, was participating in a school endorsed ski trip to Peek ‘n Peak Ski Resort in Findley Lake, New York.

18. Sometime after 12:00 p.m. while snowboarding down one of the slopes at Peek ‘n Peak, Gregory fell, sustaining an injury to his head.

19. It is believed that the Ski Patrol at Peek 'n Peak transported Gregory to a building at the base of the resort and reported the injury to 9-1-1 emergency services soon after the injury had occurred.

20. At 12:56 p.m. Emergycare was dispatched to Peek 'n Peak from Hamot Medical Center for the purpose of transporting Gregory to a trauma center so that he could receive prompt emergency treatment and care for a closed head injury.

21. Emergycare's helicopter did not leave Hamot to pick Gregory up until 1:15 p.m., arriving at the scene at 1:26 p.m.

22. Emergycare did not immediately transport Gregory to a trauma center upon arriving at Peek 'n Peak. Rather, it wasted valuable time and delayed life saving treatment. It is believed that Emergycare's activities on the ground at Peek 'n Peak were directed by Hamot and Defendant, Dr. William Phelps.

23. Emergycare also gave Gregory saline, which its staff knew, or should have known, would cause increased swelling to the brain and injury.

24. It is believed that Emergycare personnel notified Hamot and Defendant, Dr. William Phelps, of Gregory's injury and the seriousness of his condition. Neither Hamot nor Dr. Phelps made any arrangements to have an appropriate surgeon

available when Gregory arrived at the hospital. A trained surgeon or neurosurgeon would have taken measures to avoid swelling and permanent injury to the brain.

25. Finally, after keeping Gregory on the ground for over one-half hour *after* it had arrived at the scene, Emergycare left Peek 'n Peak at 1:57 p.m. to transport Gregory to Hamot for trauma care.

26. Even after Hamot took over Gregory's treatment and care at 2:08 p.m., Dr. Phelps, his admitting physician, did not immediately contact a surgeon or neurosurgeon to alleviate the pressure in Gregory's brain.

27. Instead, Dr. Phelps took no action to treat Gregory's closed head injury, and instead subjected him to a battery of scans concerning his other organs, which was unnecessary and caused further delay.

28. In fact, it was not until 2:58 p.m., fifty (50) minutes after Gregory's arrival at Hamot and one hour and forty-three minutes after Emergycare was dispatched, that Dr. Phelps called for a neurosurgeon, Brian Dalton, M.D. Dr. Dalton was not at Hamot at the time of the call and had to drive from his home to Hamot.

29. Realizing the significance of the delay, within two minutes of his arrival at the hospital at 3:23 p.m., Dr. Dalton examined Gregory and ordered that he be

immediately taken to the operating room. Dr. Dalton made his first incision at 3:47 p.m.

30. Dr. Dalton performed a limited frontal and temporal lobectomy to remove damaged tissue and limit swelling.

31. If Gregory had been treated quickly, he would have recovered with little to no permanent injury.

32. Despite the delay, Gregory was making progress and there was still hope for a recovery.

33. In the recovery room, Gregory responded to stimuli from his parents. When he heard his mother's voice, he moved his arm toward an injury and grimaced.

34. On March 9, 2007, Gregory's CT scan showed improvement from his initial admission to the hospital.

35. Sometime on or after March 9, 2007, Dr. Dalton ceased being Gregory's primary neurosurgeon, and Peter Pahapill, M.D. and Jeffrey Bednarski, M.D. took over Gregory's treatment and care .

36. Upon taking over Gregory's treatment and care, Drs. Pahapill and Bednarski began to encourage the parents to agree to a do not resuscitate ("DNR")

order for Gregory, even though Gregory's intra-cranial pressure was actually improving.

37. Gregory's mother, Teresa A. Jacobs, was opposed to a DNR order and indicated that it was her strong desire to have physicians use all means necessary to save Gregory, regardless of the potential for long term disability.

38. Notwithstanding Mrs. Jacob's indications, Becky Anderson, a nurse employed by Hamot and who was acting in accordance with Hamot's policies, procedures and/or protocol, approached Michael B. Jacobs, Gregory's father, on March 10, 2007. She did so outside his wife's presence due to her knowledge of Mrs. Jacobs' objections to a DNR and asked him to agree to a DNR anyway.

39. At the time Gregory's father was pressured into agreeing to a DNR, he believed it to be a routine hospital requirement. He was not told by Nurse Anderson or anyone else that the DNR would alter or change the treatment that Hamot and the other Defendants were providing to Gregory. He was also not told that CORE would be advised of Gregory's availability for organ donation, or that plans would be made for Gregory's demise.

40. Once the DNR order was in place, the hospital started the process of preparing Gregory to be an organ donor in accordance with its protocols. Again,

neither Mr. or Mrs. Jacobs were told of these protocols or the change in the treatment and care provided.

41. At the time that Nurse Anderson approached Mr. Jacobs, Gregory still demonstrated both cardiac activity and brain activity. In fact, cardiac activity and brain activity continued until he was wheeled into an operating room for organ harvesting procedures.

42. Mark Hogue, Psy.D. met with Gregory's father on March 10, 2007, and discussed Gregory's prognosis, "brain death" protocols, and "end of life issues."

43. Dr. Hogue stated that it would be "better" for Gregory to die rather than survive with the injuries he had sustained. He informed the parents that he interacts with numerous brain injury survivors, who, though they cannot talk, communicate that they wanted to be dead.

44. Both Mr. and Mrs. Jacobs indicated, however, that they did not want Gregory to die. To the contrary, they wanted him to live.

45. On March 11, 2007, Gregory moved when stimulated by the family. Medical personnel thereafter prescribed medications for Gregory to prevent him from waking. They also undertook actions to cool Gregory's body temperature.

46. On the morning of March 11, 2007, the hospital contacted CORE regarding donating Gregory's organs, without the knowledge or consent of Gregory's parents. In fact, at this time, Gregory's parents were still planning on Gregory's survival.

47. Gregory's intra-cranial pressure returned to the normal range on the morning of March 11, 2007.

48. Around lunch time, Gregory's mother was informed that Gregory's head was to be rewrapped. Mrs. Jacobs stated to a physician's assistant employed by Hamot, and to nurse Becky Anderson, that she wanted to talk with Dr. Pahapill *before* anything was done to rewrap her son's head.

49. However, when Gregory's mother went to lunch and before she spoke to the doctor, Gregory's head was rewrapped extremely tight. It is significant that at this time, Gregory's skull had been partially removed, and the wrapping was applied directly to the brain.

50. Immediately after Gregory's head was rewrapped, his face swelled.

51. Due to the pressure caused by rewrapping his head, Gregory's intra-cranial pressure increased.

52. Despite the swelling, medical personnel took no action to reduce the intra-cranial pressure. Instead, they increased fluids at 2:35 p.m. causing additional swelling.

53. At around 11:15 a.m. on March 12, 2007, Dr. Pahapill wrote in the notes that Gregory had bilateral strokes. He also wrote that arrangements should be made to discuss with family organ donation and withdrawal of support.

54. Dr. Pahapill met with Mr. and Mrs. Jacobs and showed them a CT scan, telling them that oval spots were strokes.

55. Neither the CT scan nor the report of the CT scan indicated that a stroke or strokes occurred. Nevertheless, Dr. Pahapill told them that there was no hope for Gregory, but that he would have herniation and “brain death.”

56. Around 2:00 p.m., Dr. Hogue and CORE representative Jonathan Coleman, spoke to Mr. Jacobs about organ donation.

57. Both Dr. Pahapill and Mr. Coleman told Mr. Jacobs that Gregory was “brain dead” and that all bodily function would cease within 12 hours.

58. Neither Drs. Pahapill and Bednarski nor any other medical personnel sought a consultation with a neurologist to determine prognosis or whether brain death criteria had been met.

59. At 4:00 p.m., Mr. Jacobs signed a form based on false information given by Dr. Pahapill and Mr. Coleman, namely repeated claims that Gregory was “brain dead.”

60. The form with which Mr. Jacobs was presented stated that “death has been determined and its time recorded in the medical records.”

61. In fact, the form presented to Mr. Jacobs was false in that death had not occurred or been recorded in the medical records at the time the consent was signed. There had been no tests conducted to determine whether brain activities had ceased, and all information available indicated that brain activity was continuing. Gregory was alive and his heart and brain were functioning.

62. Mr. Jacobs did not give consent for organ donation after cardiac death, or ever state a wish that artificial support of respiration be withdrawn.

63. Mrs. Jacobs communicated her opposition to donation but was ignored.

64. Mrs. Jacobs further indicated that Gregory stated at the time that he got his driver’s license, that he did not want to be an organ donor because his organs may be taken too soon.

65. Mr. and Mrs. Jacobs never consented to withdrawing treatment or hastening Gregory’s death.

66. Nevertheless, Mr. Coleman started giving orders and administering “treatment” and “care.”

67. He asked Mr. and Mrs. Jacobs to leave, indicating that “most families would now leave.”

68. Soon afterwards, Mr. Coleman and Dr. Pahapill acknowledged that Gregory did *not* have a condition that would cause “brain death”, but that he would die anyway from a bad heart.

69. At 6:45 p.m., the tube feeds and treatment for blood oxygen and intracranial pressure were to be discontinued per doctor’s orders.

70. At 8:47 p.m., all medications were to be discontinued except for fluid. Nevertheless, medications were continued for some time.

71. Mr. and Mrs. Jacobs did not realize that treatment of their son’s condition would cease before he had actually died.

72. At 10:11 p.m., Mr. Coleman and Hamot respiratory therapist Linda Hoge gave Gregory a treatment. Immediately Gregory moved all four limbs, moved his head to the side, and opened his mouth wide. He was also no longer able to breath above the vent.

73. Mr. Coleman scheduled the operating room and requested medications consistent with harvesting Gregory's organs, although Gregory's heart and his brain continued functioning.

74. By early morning on March 13, 2007, Mr. Coleman took over the case and called for medications for harvesting Gregory's organs.

75. No consent was given for any medications for purposes of harvesting Gregory's organs. However at 3:49 a.m. he was given Ampicillin, Cefazolin, Fluconazole, Matronidazole, and Vanomycin. At 3:52 a.m. Betadine was administered. These medications were given for the sake of harvesting Gregory's organs, not for the benefit of Gregory.

76. Gregory's blood pressure dropped after being given these medications.

77. Gregory was taken to the operating room at 5:05 a.m. that morning.

78. Surgery to remove Gregory's organs started at 5:50 a.m. However, there was neither cessation of cardiac activity nor cessation of brain function.

79. Mr. Coleman and Hamot employees and agents removed Gregory's breathing tube at 6:03 a.m. causing Gregory to suffocate.

80. Mr. and Mrs. Jacobs were not informed that the breathing tube would be removed, nor were they permitted to be with him during his final hours.

81. Mrs. and Mrs. Jacobs never consented to the intentional suffocation of their son.

82. Drs. Lopez and Cruz, together with nurses and other staff from Hamot, were present and participated in his suffocation.

83. Gregory's heart rate at first increased after Defendants deprived him of oxygen.

84. Gregory's heart rate eventually dropped after Defendants deprived Gregory of oxygen, and further sedated him.

85. His last recorded heart rate was at 6:17 a.m., 14 minutes after Defendants caused Gregory to stop breathing.

86. According to a post-dated entry, Dr. Engle pronounced Gregory dead at 6:19 a.m., even though this was only two minutes from his last recorded heart rate.

87. Defendants did not record Gregory's death in his medical records before Drs. Lopez and Cruz harvested his organs.

88. Dr. Lopez removed Gregory's heart at 8:00 a.m. Drs. Lopez and Cruz removed other organs including his kidneys and liver.

89. Gregory was alive before Defendants started surgery and suffocated him in order to harvest his organs.

90. Had Gregory been properly treated rather than been killed for his organs, he would have had a significant chance of a substantial recovery.

91. CORE, Mr. Coleman, Hamot, Dr. Lopez, Dr. Cruz, and the doctors and staff at Hamot killed Gregory in order to harvest his organs.

COUNT I

Jacobs v. CORE, Coleman, Hamot, Lopez, and Cruz

Wrongful Death – Civil Homicide

92. The preceding paragraphs are incorporated herein as if fully restated.

93. Drs. Lopez and Cruz intentionally killed Gregory Jacobs by starting surgery before Gregory was dead and by removing his breathing tube (without consent) so that Gregory would die of suffocation.

94. Hamot, through its physicians, nurses, servants, employees, agents, and unknowns, intentionally killed Gregory by starting surgery before Gregory was dead and by removing his breathing tube (without consent) so that Gregory would die of suffocation.

95. Mr. Coleman intentionally killed Gregory by causing surgery to be started before Gregory was dead and by causing the removal of his breathing tube (without consent) so that Gregory would die of suffocation.

96. CORE is responsible for Mr. Coleman's intentional acts since Mr. Coleman was acting as an employee or agent of CORE.

97. There were no actions brought by decedent on this cause of action in his lifetime, and none have been brought after his death apart from the present action.

98. Plaintiffs, Michael B. Jacobs, individually and administrator of the Estate of Gregory Jacobs, and Teresa A. Jacobs, bring this action on behalf of the survivors of the decedent, under and by virtue of the Act of 1976, July 9, P.L. 586, No. 142, Sec. 2, as amended by the Act of 1982, December 20, P.L. 1408, No. 326 and the Pennsylvania Rules of Civil Procedure.

99. Gregory died intestate and had no spouse or children

100. The following persons are entitled to recover damages: Michael B. Jacobs and Teresa A. Jacobs (parents), 515 Kilburn Street, Bellevue, OH 44811.

101. Plaintiffs bring this action on behalf of the survivors of Gregory and claim damages for pecuniary loss suffered by decedent's survivors by reason of the wrongful death of Gregory, as well as for reimbursement for medical bills, funeral

and burial expenses, administrative expenses, and other expenses incident to the death of Gregory.

102. As a result of the wrongful death of Gregory, his survivors have been deprived of the love and companionship which they would have received from him for the remainder of their lives.

103. Punitive damages are also sought due to Defendants' outrageous behavior as described above, which demonstrates Defendants' willful, wanton, and reckless conduct.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against CORE, Mr. Coleman, Hamot, Dr. Lopez, and Dr. Cruz as set forth in the Prayer for Relief.

COUNT II

Jacobs v. CORE, Coleman, Hamot, Lopez, and Cruz

Survivorship Action – Civil Homicide

104. The preceding paragraphs are incorporated herein as if fully restated.

105. Plaintiff, Michael B. Jacobs, Administrator of the Estate of Gregory Jacobs, brings this action on behalf of the Estate of Gregory Jacobs under and by virtue of the Act of 1976, July 9, P.L. 586, No. 142, Sec. 2.

106. As a result of Gregory's death, his Estate has been deprived of the economic value of his life expectancy, and Plaintiff claims damages for said pecuniary loss.

107. Plaintiffs claim on behalf of the Estate damages for the pain and suffering undergone by Gregory from the time of CORE's, Mr. Coleman's, Hamot's, Dr. Lopez's, and Dr. Cruz's involvement through his death on March 13, 2007.

108. As a result of Gregory's untimely death, Plaintiffs claim of CORE, Mr. Coleman, Hamot, Dr. Lopez, and Dr. Cruz an additional sum for the psychic value of the expectancy and enjoyment of the life of Gregory which was terminated by reason of his death.

109. As a result of Gregory's untimely death, Plaintiffs claim damages for the expenses incurred by Gregory for medical attention and treatment and for funeral and interment and administrative expenses incurred in connection therewith.

110. Plaintiffs claim damages for the loss suffered by Gregory of the prospective happiness, enjoyment and loss of pleasures of life which Gregory would have had during the remainder of his natural life, which was terminated prematurely by his death.

111. Punitive damages are also sought due to CORE's, Mr. Coleman's, Hamot's, Dr. Lopez, and Dr. Cruz's outrageous behavior as described above, which demonstrates their willful, wanton, and reckless conduct.

WHEREFORE, Plaintiff respectfully requests this Court enter judgment in its favor and against CORE, Mr. Coleman, Hamot, Dr. Lopez, and Dr. Cruz as set forth in the Prayer for Relief.

COUNT III

Jacobs v. CORE, Coleman, Hamot, Pahapill, Bednarski, Lopez, and Cruz

Wrongful Death – Civil Conspiracy to Commit Homicide

112. The preceding paragraphs are incorporated herein as if fully restated.

113. CORE, Mr. Coleman, Hamot, and Drs. Pahapill, Bednarski, Lopez and Cruz agreed to kill Gregory Jacobs in order to harvest his organs.

114. CORE, through Mr. Coleman, and Hamot, through Drs. Pahapill and Bednarski, agreed to mislead Gregory's parents into believing that Gregory was "brain dead" and had no chance of survival so that they could harvest his organs.

115. Defendants knew that no objective tests had been done to establish brain death, but rather than seeking a consultation from a neurologist, they misled Mr. and

Mrs. Jacobs into believing that Gregory was brain dead and had no chance of survival so that they could harvest his organs.

116. Even though CORE, through Mr. Coleman, and Hamot, through Drs. Pahapill and Bednarski, knew that Gregory was still alive, they agreed to turn Gregory and his treatment over to Mr. Coleman and CORE to harvest his organs.

117. CORE, Mr. Coleman, Hamot, and Drs. Pahapill and Bednarski brought Drs. Lopez and Cruz in to kill Gregory and harvest his organs.

118. CORE, Mr. Coleman, Hamot (through its physicians, nurses, servants, employees, agents, and unknowns), and Drs. Pahapill, Bednarski, Lopez, and Cruz agreed that they should take Gregory to the operating room, before he was dead, and remove him from the ventilator so that he would die.

119. They also agreed that surgery should be started prior to his death.

120. Based on the agreement, Defendants started surgery and removed Gregory from the ventilator, killing him.

121. Plaintiffs claim damages for pecuniary loss suffered by decedent's survivors.

122. Punitive damages are also sought due to Defendants' outrageous behavior as described above, which demonstrates Defendants' willful, wanton, and reckless conduct.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against CORE, Mr. Coleman, Hamot, Dr. Pahapill, Dr. Bednarski, Dr. Lopez, and Dr. Cruz as set forth in the Prayer for Relief.

COUNT IV

Jacobs v. CORE, Coleman, Hamot, Pahapill, Bednarski, Lopez, and Cruz

Survivorship Action – Civil Conspiracy to Commit Homicide

123. The preceding paragraphs are incorporated herein as if fully restated.

124. CORE, Mr. Coleman, Hamot, and Drs. Pahapill, Bednarski, Lopez and Cruz agreed to and ultimately did kill Gregory Jacobs in order to harvest his organs.

125. As a result of Gregory's death, his Estate has been deprived of the economic value of his life expectancy, and Plaintiffs claim damages for said pecuniary loss.

126. Plaintiffs claim damages for Gregory's pain and suffering, for the psychic value of the expectancy and enjoyment of the life of Gregory, which was terminated by reason of his death, for the expenses incurred by Gregory for medical attention and treatment and for funeral and interment and administrative expenses incurred in connection therewith, and for the loss suffered by Gregory of the

prospective happiness, enjoyment and loss of pleasures of life which Gregory would have had during the remainder of his natural life, which was terminated prematurely by his death.

127. Punitive damages are also sought due to CORE's, Mr. Coleman's, Hamot's, Dr. Pahapill, Dr. Bednarski, Dr. Lopez, and Dr. Cruz's outrageous behavior as described above, which demonstrates their willful, wanton, and reckless conduct.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against CORE, Mr. Coleman, Hamot, Dr. Pahapill, Dr. Bednarski, Dr. Lopez, and Dr. Cruz as set forth in the Prayer for Relief.

COUNT V

Jacobs v. CORE, Coleman, Hamot, Pahapill, Bednarski, Lopez, and Cruz

Intentional Infliction of Emotional Distress

128. The preceding paragraphs are incorporated herein as if fully restated.

129. CORE, Mr. Coleman, Hamot, and Drs. Pahapill, Bednarski, Lopez and Cruz agreed to and ultimately intentionally killed Gregory Jacobs in order to harvest his organs.

130. Gregory's death in this way, has caused severe emotional distress to Michael and Teresa Jacobs.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against CORE, Mr. Coleman, Hamot, and Drs. Pahapill, Bednarski, Lopez and Cruz as set forth in the Prayer for Relief.

COUNT VI

Jacobs v. Hamot, Phelps, Pahapill, Bednarski, Lopez, and Cruz

Wrongful Death – Medical Malpractice

131. The preceding paragraphs are incorporated herein as if fully restated.

132. Drs. Phelps, Pahapill, Bednarski, Lopez, and Cruz and Hamot, through its physicians, nurses, interns, residents, therapists, servants, employees, agents, and unknowns, held themselves out as providing professional medical services and extended treatment to Gregory Jacobs during his life.

133. Even though Dr. Phelps knew, even before Gregory arrived at Hamot, that Gregory had swelling in the brain, he failed to call a doctor to reduce Gregory's cranial pressure in a timely way, decreasing Gregory's chances of recovery.

134. Drs. Phelps, Pahapill, and Bednarski failed to consider Gregory's recovery as a primary concern, but instead made the harvesting of his organs their primary consideration in the treatment rendered.

135. Dr. Pahapill harmed Gregory by rewrapping his injury in such a way as to increase the cranial pressure.

136. Drs. Pahapill and Bednarski harmed Gregory by failing to have Gregory's injury rewrapped in an appropriate manner after doing so improperly.

137. Drs. Pahapill and Bednarski harmed Gregory by increasing his fluids when Gregory's injury called for a decrease in fluids.

138. Dr. Pahapill misled Michael and Teresa Jacobs as to Gregory's prognosis by misreading Gregory's CT scan to claim that Gregory had suffered bilateral strokes.

139. Dr. Pahapill advised Mr. and Mrs. Jacobs that he was "brain dead" when, in fact, he had not experienced a cessation of cardiac activity and failed to seek a consult from a neurologist to determine whether there was objective criteria for brain death.

140. Dr. Pahapill incorrectly claimed that all of Gregory's bodily functions would cease within a short period of time.

141. Drs. Pahapill and Bednarski failed to advise Mr. and Mrs. Jacobs of Gregory's significant chances of survival and recovery if treatment for his injury were to continue.

142. Dr. Pahapill incorrectly advised Mr. and Mrs. Jacobs that he would soon die of a bad heart, although there were no objective criteria for such an assertion.

143. Drs. Pahapill and Bednarski allowed Mr. Coleman to start giving orders and administering “treatment”, including ordering medications for the purposes of harvesting Gregory’s organs.

144. Drs. Pahapill and Bednarski allowed treatment that would have resulted in a substantial recovery to Gregory to be discontinued.

145. Drs. Pahapill and Bednarski allowed Hamot respiratory therapist Linda Hoge to give Gregory an inappropriate treatment, at Mr. Coleman’s direction, which resulted in Gregory no longer being able to breath above the vent.

146. Drs. Pahapill and Bednarski allowed Mr. Coleman to have Gregory removed to an operating room, prior to his death, in order to kill him and harvest his organs.

147. Drs. Lopez and Cruz, as well as Hamot nurses, staff, physicians, therapists, employees, agents, and unknowns, failed to consider Gregory’s recovery as a primary concern, but instead made the harvesting of his organs their primary consideration in the treatment rendered.

148. Hamot allowed the organ harvesting team, including Drs. Lopez and Cruz, to be present prior to Gregory’s death.

149. Drs. Lopez and Cruz, as well as Hamot nurses, staff, physicians, employees, agents, and unknowns, removed Gregory's breathing tube to suffocate him in the absence of consent to do so.

150. Drs. Lopez and Cruz, as well as Hamot nurses, staff, physicians, employees, agents, and unknowns, began surgery on Gregory prior to his death.

151. Defendants otherwise failed to use due care and caution under the circumstances.

152. Hamot owed Gregory a non-delegable duty to ensure his safety and well-being while at Hamot.

153. Hamot had a duty and obligation to:

- a. ensure his safety and well-being while at its facility by taking reasonable care to maintain safe and adequate facilities;
- b. select and retain only competent physicians, nurses, interns, residents, therapists, and staff;
- c. oversee all persons who practice medicine within its walls as to patient care; and,
- d. formulate, adopt and enforce adequate rules and policies to ensure quality care for the patients.

154. Hamot acted in deviation from the standard of care of a reasonable medical facility and breached these duties it owed to Gregory.

155. Hamot had notice of the defects in the procedures, treatment and care, but failed to oversee all persons who provided medical services within its walls and failed to formulate, adopt, and enforce adequate rules and policies to ensure quality treatment and care. Hamot also, despite notice, failed to select and retain only competent physicians, nurses, interns, residents, therapists, and staff and failed to maintain safe and adequate facilities.

156. This breach in duty was a substantial factor in bringing out the harm to Gregory and significantly increased the risks that such harms would occur.

157. Gregory's physicians, nurses, interns, residents, and therapists were agents and employees of Hamot and were acting within the scope of their employment and agency at all pertinent times.

158. Hamot is also vicariously liable for the actions of the physicians, nurses, interns, residents, and therapists because a reasonable prudent person in the Jacobs' position would be justified in the belief that the care in question was rendered by Hamot and its agents, and the care in question was represented to the Jacobs as care rendered by Hamot and its agents.

159. Specifically, Hamot held out the physicians, nurses, interns, residents, and therapists who treated Gregory while at Hamot as its employees.

160. All of the actions by Hamot and Drs. Phelps, Pahapill, Bednarski, Lopez, and Cruz were intentional, reckless, and/or negligent and resulted in Gregory's death.

161. Had Gregory received appropriate treatment by Drs. Phelps, Pahapill, Bednarski, Lopez, and Cruz and by Hamot, he would have lived and had a substantial chance of a significant recovery.

162. Plaintiffs claim damages for pecuniary loss suffered by decedent's survivors.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against Hamot and Drs. Phelps, Pahapill, Bednarski, Lopez, and Cruz as set forth in the Prayer for Relief.

COUNT VII

Jacobs v. Emergycare

Wrongful Death – Medical Malpractice

163. The preceding paragraphs are incorporated herein as if fully restated.

164. Emergycare held itself out as providing professional medical services and gave treatment and care to Gregory.

165. Emergycare failed to timely arrive at the scene of the accident and failed to timely transport Gregory to Hamot.

166. Emergycare insisted on transporting Gregory when ground transportation would have been faster.

167. Emergycare gave Gregory fluids when fluids only exasperated his primary injury.

168. Emergycare failed to call a doctor to reduce Gregory's cranial pressure in a timely way.

169. Emergycare failed to establish and enforce appropriate procedures despite known defects.

170. Emergycare failed to properly train and supervise persons under their direction, supervision, or control, despite known defects in training and practice.

171. Emergycare otherwise failed to use due care and caution under the circumstances.

172. Emergycare is also vicariously liable for the actions of its staff, employees, and agents because a reasonable prudent person in the Jacobs' position would be justified in the belief that the care in question was rendered by Emergycare and its agents.

173. All of the actions by Emergycare were intentional, reckless, and/or negligent and resulted in Gregory's death.

174. Had Gregory received appropriate treatment from Emergycare he would have lived and had a substantial chance of a significant recovery.

175. Plaintiffs claim damages for pecuniary loss suffered by decedent's survivors.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against Emergycare as set forth in the Prayer for Relief.

COUNT VIII

Jacobs v. Hamot, Phelps Pahapill, Bednarski, Lopez, Cruz, and Emergycare

Survivorship Action – Medical Malpractice

176. The preceding paragraphs are incorporated herein as if fully restated.

177. The above described actions by Hamot, Drs. Phelps, Pahapill, Bednarski, Lopez, and Cruz, and Emergycare were negligent and resulted in Gregory's premature death and reduced chances of survival.

178. As a result of Gregory's death, his Estate has been deprived of the economic value of his life expectancy, and Plaintiffs claim damages for said pecuniary loss.

179. Plaintiffs claim damages for Gregory's pain and suffering, for the psychic value of the expectancy and enjoyment of the life of Gregory which was terminated by reason of his death, for the expenses incurred by Gregory for medical attention and treatment and for funeral and interment and administrative expenses incurred in connection therewith, and for the loss suffered by Gregory of the prospective happiness, enjoyment and loss of pleasures of life which Gregory would have had during the remainder of his natural life which was terminated prematurely by his death.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against Hamot, Dr. Phelps, Dr. Pahapill, Dr. Bednarski, Dr. Lopez, Dr. Cruz, and Emergycare as set forth in the Prayer for Relief.

COUNT IX

Jacobs v. CORE, Coleman, Hamot, and Pahapill

Wrongful Death – Fraudulent Misrepresentation

180. The preceding paragraphs are incorporated herein as if fully restated.

181. CORE through Mr. Coleman and Hamot through Dr. Pahapill told Michael Jacobs that Gregory was "brain dead".

182. Defendants knew that this was false, but communicated this in order to convince Mr. Jacobs to give consent for organ donation.

183. It was reasonable for Mr. Jacobs to rely on these misrepresentations since if Gregory was no longer living, he believed he could do good for others through offering Gregory's organs for transplant.

184. The issue of death was material to Mr. Jacobs' decision.

185. If CORE, Mr. Coleman, Hamot, and Dr. Pahapill had not secured "consent" in this way, Gregory would have continued to have been treated for his injury, rather than turning Gregory over to be killed for his organs.

186. Had treatment continued, Gregory may now be alive.

187. Plaintiffs claim damages for pecuniary loss suffered by decedent's survivors.

188. Punitive damages are also sought due to Defendants' outrageous behavior as described above, which demonstrates Defendants' willful, wanton, and reckless conduct.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against CORE, Mr. Coleman, Hamot, and Dr. Pahapill as set forth in the Prayer for Relief.

COUNT X

Jacobs v. CORE, Coleman, Hamot, and Pahapill

Survivorship Action – Fraudulent Misrepresentation

189. The preceding paragraphs are incorporated herein as if fully restated.

190. As a result of the fraudulent misrepresentation by CORE, Mr. Coleman, Hamot, and Dr. Pahapill, Gregory was killed. Otherwise he may still be alive or would not have died so soon.

191. As a result of Gregory's death, his Estate has been deprived of the economic value of his life expectancy, and Plaintiffs claim damages for said pecuniary loss.

192. Plaintiffs claim damages for Gregory's pain and suffering, for the psychic value of the expectancy and enjoyment of the life of Gregory which was terminated by reason of his death, for the expenses incurred by Gregory for medical attention and treatment and for funeral and interment and administrative expenses incurred in connection therewith, and for the loss suffered by Gregory of the prospective happiness, enjoyment and loss of pleasures of life which Gregory would have had during the remainder of his natural life which was terminated prematurely by his death.

193. Punitive damages are also sought due to CORE's, Mr. Coleman's, Hamot's, and Dr. Pahapill's outrageous behavior as described above, which demonstrates their willful, wanton, and reckless conduct.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against CORE, Mr. Coleman, Hamot, and Dr. Pahapill as set forth in the Prayer for Relief.

COUNT XI

Jacobs v. CORE, Coleman, Hamot, and Pahapill

Wrongful Death – Negligent Misrepresentation

194. The preceding paragraphs are incorporated herein as if fully restated.

195. CORE, through Mr. Coleman, and Hamot, through Dr. Pahapill, told Michael Jacobs that Gregory was "brain dead".

196. Defendants did not know if this was the case and should have known it was false, but communicated this in order to convince Mr. Jacobs to give consent for organ donation.

197. It was reasonable for Mr. Jacobs to rely on these misrepresentations, since if Gregory was no longer living, he believed he could do good for others through offering Gregory's organs for transplant.

198. The issue of death was material to Mr. Jacobs' decision.

199. If CORE, Mr. Coleman, Hamot, and Dr. Pahapill had not secured "consent" in this way, Gregory would have continued to have been treated for his condition, rather than turning Gregory over to be killed for his organs.

200. Had treatment continued, Gregory may now be alive.

201. Plaintiffs claim damages for pecuniary loss suffered by decedent's survivors.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against CORE, Mr. Coleman, Hamot, and Dr. Pahapill as set forth in the Prayer for Relief.

COUNT XII

Jacobs v. CORE, Coleman, Hamot, and Pahapill

Survivorship Action – Negligent Misrepresentation

202. The preceding paragraphs are incorporated herein as if fully restated.

203. As a result of the negligent misrepresentation by CORE, Mr. Coleman, Hamot, and Dr. Pahapill, Gregory Jacobs was killed. Otherwise he may still be alive.

204. As a result of Gregory's death, his Estate has been deprived of the economic value of his life expectancy, and Plaintiffs claim damages for said pecuniary loss.

205. Plaintiffs claim damages for Gregory's pain and suffering, for the psychic value of the expectancy and enjoyment of the life of Gregory which was terminated by reason of his death, for the expenses incurred by Gregory for medical attention and treatment and for funeral and interment and administrative expenses incurred in connection therewith, and for the loss suffered by Gregory of the prospective happiness, enjoyment and loss of pleasures of life which Gregory would have had during the remainder of his natural life which was terminated prematurely by his death.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against CORE, Mr. Coleman, Hamot, and Dr. Pahapill as set forth in the Prayer for Relief.

COUNT XIII

Jacobs v. CORE, Coleman, Hamot, Pahapill, Lopez, and Cruz

Wrongful Death – Civil Battery

206. The preceding paragraphs are incorporated herein as if fully restated.

207. Dr. Pahapill engaged in intentionally, unpermitted contact against Gregory Jacobs, including rewrapping Gregory's brain in such a way to increase the cranial pressure.

208. CORE, through Mr. Coleman, engaged in intentionally, unpermitted contact against Gregory including:

- a. directing that medications and treatments to be given for the harvesting of Gregory's organs;
- b. directing that Gregory be taken to the operating room for surgery before he was dead;
- c. directing that surgery commence before Gregory was dead;
- d. directing that Gregory's breathing tube be removed resulting in Gregory's suffocation; and
- e. directing that Gregory's organs be removed in the absence of a valid consent.

209. Drs. Lopez and Cruz engaged in intentionally, unpermitted contact against Gregory including:

- a. starting surgery before Gregory was dead;
- b. removing or directing that Gregory's breathing tube be removed resulting in Gregory's suffocation; and
- c. removing Gregory's organs in the absence of a valid consent.

210. Hamot, through its physicians, nurses, employees, agents, and unknowns, were responsible for all of the intentional, unpermitted contact against Gregory as described in this Count.

211. The above actions done prior to Gregory's death resulted in worsening Gregory's condition and ultimately in his death.

212. As a result of Gregory's death, his Estate has been deprived of the economic value of his life expectancy, and Plaintiffs claim damages for said pecuniary loss.

213. Plaintiffs claim damages for Gregory's pain and suffering, for the psychic value of the expectancy and enjoyment of the life of Gregory which was terminated by reason of his death, for the expenses incurred by Gregory for medical attention and treatment and for funeral and interment and administrative expenses incurred in connection therewith, and for the loss suffered by Gregory of the prospective happiness, enjoyment and loss of pleasures of life which Gregory would have had during the remainder of his natural life which was terminated prematurely by his death.

214. Punitive damages are also sought due to CORE's, Mr. Coleman's, Hamot's, Dr. Pahapill's, Dr. Lopez's, and Dr. Cruz's outrageous behavior as described above, which demonstrates their willful, wanton, and reckless conduct.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against CORE, Mr. Coleman, Hamot, and Drs. Pahapill, Lopez, and Cruz as set forth in the Prayer for Relief.

COUNT XIV

Jacobs v. CORE, Coleman, Hamot, Pahapill, Lopez, and Cruz

Survivorship Action – Civil Battery

215. The preceding paragraphs are incorporated herein as if fully restated.

216. CORE, Mr. Coleman, Pahapill, Lopez, and Cruz engaged in intentionally, unpermitted contact against Gregory Jacobs resulting in his premature death.

217. As a result of Gregory's death, his Estate has been deprived of the economic value of his life expectancy, and Plaintiffs claim damages for said pecuniary loss.

218. Plaintiffs claim damages for Gregory's pain and suffering, for the psychic value of the expectancy and enjoyment of the life of Gregory which was terminated by reason of his death, for the expenses incurred by Gregory for medical attention and treatment and for funeral and interment and administrative expenses incurred in connection therewith, and for the loss suffered by Gregory of the

prospective happiness, enjoyment and loss of pleasures of life which Gregory would have had during the remainder of his natural life which was terminated prematurely by his death.

219. Punitive damages are also sought due to CORE's, Mr. Coleman's, Hamot's, Dr. Pahapill's, Dr. Lopez's, and Dr. Cruz's outrageous behavior as described above, which demonstrates their willful, wanton, and reckless conduct.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against CORE, Mr. Coleman, Hamot, and Drs. Pahapill, Lopez, and Cruz as set forth in the Prayer for Relief.

COUNT XV

Jacobs v. CORE, Coleman, Hamot, Lopez, and Cruz

Mutilation of a Corpse

220. The preceding paragraphs are incorporated herein as if fully restated.

221. CORE, through Mr. Coleman, engaged in intentionally, unpermitted contact against Gregory Jacobs' body after his death, including directing that Gregory's organs be removed in the absence of a valid consent.

222. Drs. Lopez and Cruz engaged in intentionally, unpermitted contact against Gregory's body after his death, including removing Gregory's organs in the absence of a valid consent.

223. Hamot, through its physicians, nurses, employees, agents, and unknowns was responsible for all of the intentional, unpermitted contact against Gregory's body as described in this Count.

224. The removal of Gregory's organs in this way mutilated his body and resulted in emotional harm to his parents, Michael and Teresa Jacobs.

225. Punitive damages are also sought due to CORE's, Mr. Coleman's, Hamot's, Dr. Lopez's, and Dr. Cruz's outrageous behavior as described above, which demonstrates their willful, wanton, and reckless conduct.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against CORE, Mr. Coleman, Hamot, and Drs. Lopez and Cruz as set forth in the Prayer for Relief.

COUNT XVI

Jacobs v. CORE

Wrongful Death – Unfair Trade Practices

226. The preceding paragraphs are incorporated herein as if fully restated.

227. CORE offered their help to Michael Jacobs for the purpose of providing a personal service to Gregory, namely allowing Gregory to donate his organs.

228. CORE, through Mr. Coleman, communicated to Mr. Jacobs that Gregory was “brain dead”.

229. CORE and Mr. Coleman knew this was false, but communicated this in order to convince Mr. Jacobs to give consent for organ donation.

230. CORE representations, through Mr. Coleman, were fraudulent and deceptive and created confusion and misunderstanding, thereby violating the Unfair Trade Practices and Consumer Protection Law.

231. CORE failed to follow the provisions of the Uniform Anatomical Gift Act:

- a. 20 Pa.C.S.A. §8611(b) requires consent “in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same” class who purported to give consent. However, Gregory’s mother expressed opposition to donation and explained that Gregory explicitly did not want to be an organ donor.
- b. 20 Pa.C.S.A. §8613(b) requires death before the “gift becomes effective.” However, Defendants stopped treating Gregory and began the process of taking his organs before he was dead.
- c. 20 Pa.C.S.A. §8616(a) does not permit a part to be removed before death. However, Defendants began the process of taking Gregory’s organs before he was dead.

- d. 20 Pa.C.S.A. §8616(b) provides, “The time of death shall be determined by a physician who tends the donor at his death or, if none, the physician who certifies the death. The physician or person who certifies death or any of his professional partners or associates shall not participate in the procedures for removing or transplanting a part.” The time of death was never determined or certified by a physician not participating in the removal.
- e. 20 Pa.C.S.A. §8617(d) requires that certain protocols be developed by a hospital and followed by representatives of organizations like CORE. CORE did not follow these protocols.
- f. 20 Pa.C.S.A. §8624(b) prohibits unfair business practices by organizations like CORE.

232. In failing to following the provisions of the Uniform Anatomical Gift Act, CORE violated the Unfair Trade Practices and Consumer Protection Law.

233. By participating in and directing Gregory’s death, CORE was able to obtain the financial benefit of obtaining Gregory’s organs for transfer and sale to other individuals, who then paid money, a portion of which went to CORE, for the wrongful procurement of the organs.

234. As a result of CORE’s actions, Gregory’s treatment stopped, he was operated on, and he was suffocated, resulting in his death.

235. As a result of Gregory's death, his Estate has been deprived of the economic value of his life expectancy, and Plaintiffs claim damages for said pecuniary loss.

236. Plaintiffs claim damages for Gregory's pain and suffering, for the psychic value of the expectancy and enjoyment of the life of Gregory which was terminated by reason of his death, for the expenses incurred by Gregory for medical attention and treatment and for funeral and interment and administrative expenses incurred in connection therewith, and for the loss suffered by Gregory of the prospective happiness, enjoyment and loss of pleasures of life which Gregory would have had during the remainder of his natural life which was terminated prematurely by his death.

237. Treble damages and attorney's fees are sought under the Unfair Trade Practices and Consumer Protection Law.

238. Punitive damages are also sought due to CORE's outrageous behavior as described above, which demonstrates CORE's willful, wanton, and reckless conduct.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor as set forth in the Prayer for Relief.

COUNT XVII

Jacobs v. CORE

Survivorship Action – Unfair Trade Practices

239. The preceding paragraphs are incorporated herein as if fully restated.

240. As described above, CORE engaged in unfair trade practices by intentionally misleading Michael Jacobs and by failing to follow the provisions of the Uniform Anatomical Gift Act.

241. These practices resulted in Gregory's premature death.

242. As a result of Gregory's death, his Estate has been deprived of the economic value of his life expectancy, and Plaintiffs claim damages for said pecuniary loss.

243. Plaintiffs claim damages for Gregory's pain and suffering, for the psychic value of the expectancy and enjoyment of the life of Gregory which was terminated by reason of his death, for the expenses incurred by Gregory for medical attention and treatment and for funeral and interment and administrative expenses incurred in connection therewith, and for the loss suffered by Gregory of the prospective happiness, enjoyment and loss of pleasures of life which Gregory would have had during the remainder of his natural life which was terminated prematurely by his death.

244. Treble damages and attorney's fees are sought under the Unfair Trade Practices and Consumer Protection Law.

245. Punitive damages are also sought due to CORE's outrageous behavior as described above, which demonstrates their willful, wanton, and reckless conduct.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against CORE as set forth in the Prayer for Relief.

PRAYER FOR RELIEF

Plaintiffs respectfully pray for judgment as follows:

- A. Compensatory damages in an amount in excess of \$5,000,000.00 and punitive damages as to all Defendants;
- B. Treble damages and attorney's fees and costs against CORE;
- C. A jury trial as to each Defendant as to each Count; and
- D. Such other relief as is reasonable and just.

BOYLE, NEBLETT & WENGER

/s/ Dennis E. Boyle

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