

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO.: 2011-CA-007017
DIVISION: CV-E

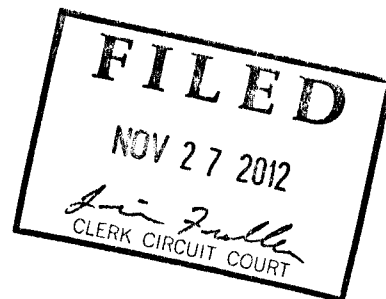
MARGARET ROBERTS, an incapacitated
adult, and her husband DARRELL ROBERTS,
individually and as the guardian of Margaret
Roberts,

Plaintiffs,

vs.

ST. VINCENT'S MEDICAL CENTER, INC., a
Florida Corporation; GREGORY G. PAVLAT,
M.D.; HOSPITAL SPECIALISTS, P.A., a
Florida Professional Association; BENJAMIN
E. MOORE, M.D.; BENJAMIN E. MOORE,
M.D., P.A., a Florida Professional Association;
WILLIAM C. PILCHER, M.D.; SOUTHERN
HEART GROUP, P.A., a Florida Professional
Association, doing business as DIAGNOSTIC
CARDIOLOGY ASSOCIATES; THOMAS W.
SZWED, M.D.; and NORTH FLORIDA
CHEST PHYSICIANS, P.A., a Florida
Professional Association,

Defendants. _____ /



AMENDED COMPLAINT

The plaintiffs, MARGARET ROBERTS and her husband DARRELL ROBERTS, sue the
defendants, ST. VINCENT'S MEDICAL CENTER, INC. ("St. Vincent's Medical Center");
GREGORY G. PAVLAT ("Dr. Pavlat"); HOSPITAL SPECIALISTS, P.A.; BENJAMIN E.
MOORE ("Dr. Moore"); BENJAMIN E. MOORE, M.D., P.A.; WILLIAM C. PILCHER ("Dr.
Pilcher"); SOUTHERN HEART GROUP, P.A., doing business as DIAGNOSTIC
CARDIOLOGY ASSOCIATES; THOMAS W. SZWED ("Dr. Szwed"); and NORTH
FLORIDA CHEST PHYSICIANS, P.A., and allege:

COMMON ALLEGATIONS

1. This is an action for damages exceeding \$15,000 exclusive of interest, costs and attorneys' fees.
2. At all times material, Margaret Roberts was a resident of Duval County, Florida. Mrs. Roberts has been adjudicated to be incapacitated in the proceedings styled, *In re: Margaret Roberts*, in the Circuit Court, Fourth Judicial Circuit, in and for Duval County, Florida, Case No:16-2012-MH-000-641-XXXX-MA, Division PR-A (Civil).
3. At all times material, Margaret Roberts was the lawful wife of Darrell Roberts.
4. At all times material, Darrell Roberts, was a resident of Duval County, Florida.
5. At all times material, Darrell Roberts was the lawful husband of Margaret Roberts. Darrell Roberts is also the court-appointed guardian of Margaret Roberts.
6. At all times material, each of the defendants did business in Duval County, Florida.
7. The circumstances and occurrences giving rise to this action occurred in Jacksonville, Duval County, Florida.
8. All conditions precedent to bringing this action have been satisfied or waived, including, but not limited to, those imposed by sections 766.106, et. seq., Florida Statutes and Rule 1.650, Florida Rule of Civil Procedure.
9. The undersigned attorneys hereby certify that they have made a reasonable investigation as permitted by the circumstances which has given rise to the good faith belief that there has been negligence in the care or treatment of Mrs. Roberts by each of the defendants.
10. On August 23, 2010, Mr. and Mrs. Roberts (the "Roberts") went to St. Vincent's Medical Center seeking medical care for Mrs. Roberts from its Emergency Department.

11. On August 23, 2010, Mrs. Roberts was admitted to the Intensive Care Unit of St. Vincent's Medical Center after it was determined that her condition had stabilized and she was capable of receiving medical treatment as a nonemergency patient.

12. Diagnostic studies performed shortly after Mrs. Roberts' admission confirmed that a blood clot (i.e., Deep Vein Thrombosis) had developed in the popliteal vein of her left leg and that she had Pulmonary Embolism in each of her lungs.

13. Pulmonary Embolism occurs when a fragment of a Deep Vein Thrombosis breaks away from the main clot and travels in the venous bloodstream (i.e., Venous Thromboemboli), first to the heart and then to the lungs, where it can partially or completely block a pulmonary artery and/or one of its branches.

14. On the morning of her admission, Dr. Pavlat, a Hospitalist, examined Mrs. Roberts and noted in the medical records of St. Vincent's Medical Center that Mrs. Roberts was experiencing, among other things, left-sided weakness and numbness.

15. Dr. Pavlat also noted in the medical records of St. Vincent's Medical Center his concern that the sudden onset of the left-sided symptoms exhibited by Mrs. Roberts could suggest a Transient Ischemic Attack or Cerebral Vascular Accident.

16. At or about 11:35 a.m. on the morning of August 23, 2010, Mrs. Roberts was evaluated by Dr. Pilcher as part of a cardiology consultation.

17. In his consultation report, Dr. Pilcher noted that Mrs. Roberts was experiencing, among other things, bilateral pulmonary embolus, left arm numbness and intermittent headache.

18. On August 23, 2010, at or about 11:56 a.m., a CT (Computed Tomography) scan was taken of Mrs. Roberts' brain.

19. On August 23, 2010, at approximately 1:45 p.m., a transthoracic echocardiogram

was performed on Mrs. Roberts.

20. The August 23, 2010, Echocardiogram of Mrs. Roberts' heart did not include a Bubble Study.

21. An Echocardiogram with a Bubble Study is performed by injecting agitated saline into the patient's venous system during ultrasound imaging of the left atrium of the heart. If activated saline bubbles become visible in the ultrasound images of the left atrium, then there has been shunting from the right atrium to the left atrium. Such right-to-left shunting usually occurs through a Patent Foramen Ovale.

22. A Patent Foramen Ovale is a normal component of the fetal circulation and consists of an opening in the septum between the left and right atrium of the heart. In the fetal circulation, oxygenated blood enters the fetus through the umbilical cord, travels to the right atrium, passes through a Patent Foramen Ovale into the arterial circulation of the left atrium, and is thereafter distributed throughout the body. After birth, the Patent Foramen Ovale usually closes and the venous blood flows into the right atrium, is pumped into the right ventricle and onto the pulmonary arteries. However, in approximately one-quarter of the normal adult patient population, closure of the foramen ovale is incomplete, leaving a space through which there is communication between the right atrium and the left atrium.

23. In patients with Pulmonary Embolism, such as Mrs. Roberts, the pressure in the right side of the heart commonly increases as thromboemboli clog the arteries leading from the heart to the lungs and thereby obstruct the flow of blood leaving the right side of the heart.

24. As the pressure in the right side of the heart increases, blood in the right atrium is more likely to shunt into the left atrium through a Patent Foramen Ovale.

25. The August 23, 2010, Echocardiogram revealed elevated pressure in the right side

of Mrs. Roberts' heart.

26. At or about 2:32 p.m. on the afternoon of August 23, 2010, Dr. Szwed, a pulmonologist, evaluated Mrs. Roberts and also noted in the medical records of St. Vincent's Medical Center that Mrs. Roberts was experiencing, among other things, left arm numbness.

27. At or about 5:50 p.m. on August 23, 2010, Dr. Moore evaluated Mrs. Roberts as part of a neurology consultation and noted in the medical records of St. Vincent's Medical Center that Mrs. Roberts had left arm numbness and his impression that Mrs. Roberts had suffered a Transient Ischemic Attack.

28. On August 24, 2010, at approximately 2 p.m., Mrs. Roberts complained of severe headaches.

29. Thereafter, at approximately 3:18 p.m., on August 24, 2010, Mrs. Roberts underwent another CT scan of her brain.

30. At approximately noon on August 25, 2010, the neurologic symptoms exhibited by Mrs. Roberts worsened much further.

31. On August 25, 2010, at approximately 1:35 p.m., another CT scan was taken of Mrs. Roberts' brain.

32. The August 25, 2010, CT Scan of Mrs. Roberts' brain revealed that she had suffered an acute Left Middle Cerebral Artery infarct (i.e., a stroke) that was not evident on the August 23, 2010, CT Scan or the August 24, 2010, CT Scan.

33. At approximately noon on August 25, 2010, Venous Thromboemboli that had broken free from the Deep Vein Thrombosis in Mrs. Roberts' leg traveled to and lodged in her left middle cerebral artery resulting in a massive ischemic stroke of that portion of her brain supplied by that artery and its branches.

34. Venous Thromboemboli that enter the arterial circulation through a Patent Foramen Ovale are called Paradoxical Emboli.

35. The Paradoxical Emboli that entered Mrs. Roberts' arterial circulation on August 25, 2010, traveled to and lodged in her left middle cerebral artery.

36. The left middle cerebral artery is the main artery supplying oxygenated blood to the left hemisphere of the brain.

37. The stroke suffered by Mrs. Roberts on August 25, 2010, meets the definition of a catastrophic injury, as established by Florida Statute § 766.118(1)(a)(3), inasmuch as it caused permanent impairment as constituted by a severe brain injury including, but not limited to, right-sided hemiparesis (severe motor disturbances) and aphasia (severe communication disturbances).

38. On the late afternoon of August 25, 2010, a filter was installed within Mrs. Roberts' Inferior Vena Cava to prevent further Venous Thromboemboli from reaching her heart.

39. At no time from Mrs. Roberts' admission to St. Vincent's Medical Center on August 23, 2010, until she suffered the Left Middle Cerebral Artery infarct on August 25, 2010, was the interatrial septum of Mrs. Roberts' heart evaluated by an Echocardiogram with a Bubble Study, or any other test or imaging modality, for the specific purpose of determining whether she had shunting of blood from her right atrium into the left atrium.

40. On August 31, 2010, an Echocardiogram with Bubble Study was performed which confirmed that Mrs. Roberts had right-to-left shunting through a Patent Foramen Ovale.

COUNT ONE
(Medical Malpractice of Dr. Pavlat)

Plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, sues the defendant, Gregory G. Pavlat, M.D., and says:

41. Plaintiff hereby incorporates by this reference the COMMON ALLEGATIONS from above as if each such allegation were more fully set forth herein.

42. At all times material hereto, Dr. Pavlat was licensed to practice medicine by the State of Florida and was doing so in Duval County, Florida.

43. On August 23, 2010, Mrs. Roberts came under the care of Dr. Pavlat.

44. At all times material, Dr. Pavlat was board certified in the area of Internal Medicine and was practicing as a Hospitalist.

45. At all times material, Dr. Pavlat owed Mrs. Roberts a duty to exercise that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, was recognized as acceptable and appropriate by reasonably careful physicians caring for a hospitalized patient, such as Mrs. Roberts, presenting with confirmed Venous Thromboembolic disease and associated neurologic symptoms.

46. The care, skill, and treatment Dr. Pavlat provided Mrs. Roberts fell beneath that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably careful similar health care providers caring for a hospitalized patient, such as Mrs. Roberts, with confirmed Venous Thromboembolic disease and associated neurologic symptoms.

47. The injuries suffered by Mrs. Roberts were the direct and proximate result of the negligence of Dr. Pavlat and of his failure to comply with the accepted standards of care as contemplated by the applicable Florida Statutes. Dr. Pavlat's negligence included, but was not

limited to, the following:

- a. Dr. Pavlat failed to adequately and timely recognize, appreciate, evaluate and/or investigate the neurological symptoms he noted Mrs. Roberts to have exhibited during her hospitalization at St. Vincent's Medical Center from the time of her admission on August 23, 2010, until the moment that she suffered the Left Middle Cerebral Artery infarct on August 25, 2010;
- b. Dr. Pavlat failed to timely recognize, appreciate, investigate and/or consider Mrs. Roberts' known Venous Thromboembolic disease as the cause of Mrs. Roberts' neurological symptoms;
- c. Dr. Pavlat failed to adequately, timely, and specifically order appropriate diagnostic testing (e.g., Echocardiogram with Bubble Study) to determine if there was shunting of venous blood flow from Mrs. Roberts' right atrium into her left atrium;
- d. Dr. Pavlat failed to confirm that appropriate diagnostic testing (e.g., Echocardiogram with Bubble Study) had been timely performed to determine if there was shunting of venous blood flow from Mrs. Roberts' right atrium into her left atrium;
- e. Dr. Pavlat failed to properly coordinate the specialty consultations he had requested to ensure that Mrs. Roberts was receiving the appropriate evaluation, investigation, testing, and care from the specialists with whom he had sought consultations; and/or,
- f. Dr. Pavlat failed to timely order appropriate treatment to prevent Mrs. Roberts from suffering catastrophic Paradoxical Embolism.

48. But for the negligence of Dr. Pavlat, Mrs. Roberts would not have suffered catastrophic Paradoxical Embolism and the consequences resulting therefrom.

49. As a direct and proximate result of the negligence of Dr. Pavlat, as alleged herein, Margaret Roberts has suffered and will continue to suffer damages.

50. On March 10, 2011, plaintiffs timely served on the defendant, Gregory G. Pavlat, M.D., by certified U.S. mail, return-receipt requested, a legally sufficient Notice of Intent to Initiate Litigation for Medical Malpractice.

51. Included in the Notice of Intent to Initiate Litigation for Medical Malpractice served on Dr. Pavlat was a legally sufficient corroborating Verified Written Medical Expert Opinion.

52. On June 6, 2011, Dr. Pavlat, through counsel, rejected the plaintiffs' claims.

WHEREFORE, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, demands judgment against Gregory G. Pavlat, M.D., for all damages provided at law.

COUNT TWO

(Consortium Claim of Darrell Roberts against Dr. Pavlat)

Plaintiff, Darrell Roberts, individually, sues the defendant, Gregory G. Pavlat, M.D., and says:

53. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT ONE from above as if each such allegation were more fully set forth herein.

54. As a result of the negligence of Dr. Pavlat and the injuries sustained by Margaret Roberts that were caused thereby, Darrell Roberts has been and will continue to be deprived of the support, services, companionship, comfort, society and attentions of his wife. Such losses are permanent and continuing in nature.

WHEREFORE, the plaintiff Darrell Roberts, individually, demands judgment against Dr. Pavlat for all damages provided at law.

COUNT THREE

(Vicarious Liability of Hospital Specialists, P.A., for the negligence of Dr. Pavlat)

Plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, sues the defendant, Hospital Specialists, P.A., and says:

55. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT ONE from above as if each such allegation were more fully set forth herein.

56. At all times material hereto, Hospital Specialists, P.A., was a professional association authorized and existing under the laws of the State of Florida with its principal place of business being in Duval County, Florida.

57. At all times material, Dr. Pavlat was an employee, agent or apparent agent of Hospital Specialists, P.A., and was acting within the scope and course of his employment and/or with the apparent agency or authority of the defendant, Hospital Specialists, P.A.

58. By virtue of the foregoing, defendant Hospital Specialists, P.A., is vicariously liable for any damages caused the plaintiff by the negligence of Dr. Pavlat, as more fully set forth above.

59. On March 8, 2011, plaintiffs timely served on the defendant, Hospital Specialists, P.A., by certified U.S. mail, return-receipt requested, a legally sufficient Notice of Intent to Initiate Litigation for Medical Malpractice.

60. Included in the Notice of Intent to Initiate Litigation for Medical Malpractice that the plaintiffs served on Hospital Specialists, P.A., was a legally sufficient Verified Written Medical Expert Opinion which corroborated reasonable grounds to support a claim of medical

negligence involving the care rendered by Dr. Pavlat.

61. On June 6, 2011, Hospital Specialists, P.A., through counsel, rejected the plaintiffs' claims.

WHEREFORE, the plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, demands judgment against Hospital Specialists, P.A., for all damages provided at law.

COUNT FOUR

(Consortium Claim of Darrell Roberts against Hospital Specialists, P.A.)

Plaintiff, Darrell Roberts, individually, sues the defendant, Hospital Specialists, P.A., and says:

62. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT THREE from above as if each such allegation were more fully set forth herein.

63. As a result of the negligence of Dr. Pavlat and the injuries sustained by Margaret Roberts that were caused thereby, Darrell Roberts has been and will continue to be deprived of the support, services, companionship, comfort, society and attentions of his wife. Such losses are permanent and continuing in nature.

WHEREFORE, the plaintiff Darrell Roberts demands judgment against Hospital Specialists, P.A., for all damages provided at law.

COUNT FIVE

(Vicarious Liability of St. Vincent's Medical Center for Dr. Pavlat)

Plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, sues the defendant, St. Vincent's Medical Center, and says:

64. Plaintiff hereby incorporates by this reference the enumerated allegations of

COUNT ONE from above as if each such allegation were more fully set forth herein.

65. Prior to Margaret Roberts' admission on August 23, 2010, St. Vincent's Medical Center publicized and marketed itself to the general public, including the plaintiffs, as being the hospital in Northeast Florida and Southeast Georgia, "Where the Experts Are." St. Vincent's Medical Center also held out to the general public, including the plaintiffs, that:

- i. "**Our** dedicated emergency room physicians are board certified in emergency medicine, with a supporting team of nurses, technicians, and other staff who have special training in emergency care." (**Emphasis** added.)
- ii. "**Our** doctors and staff at St. Vincent's Medical Center . . . perform approximately 20,000 cardiovascular procedures each year . . . ; (**Emphasis** added.)
- iii. "At St. Vincent's HealthCare, we are committed to our patients, **our** doctors and staff, and our community. As such, **we** promise to deliver the very best healthcare, every time." (**Emphasis** added.)

66. By making these and other similar representations to the general public, including the plaintiffs, St. Vincent's Medical Center caused and allowed the Roberts to believe that the physicians assigned to Mrs. Roberts, including Dr. Pavlat, were agents of and had the authority to act for St. Vincent's Medical Center.

67. Against this backdrop on August 23, 2010, when Mrs. Roberts became ill and needed medical care, the Roberts justifiably relied on the representations of St. Vincent's Medical Center and specifically chose to seek medical care from St. Vincent's Medical Center instead of one of many other local hospitals.

68. Moreover, by virtue of the representations made by or on behalf of St. Vincent's Medical Center, the Roberts relied on St. Vincent's Medical Center to provide the expert medical care Mrs. Roberts needed.

69. At no time during Mrs. Roberts' hospitalization at St. Vincent's Medical Center were Mr. or Mrs. Roberts given the choice or permitted to give any input in the choice of a Hospitalist.

70. At no time during Mrs. Roberts' hospitalization at St. Vincent's Medical Center were Mr. or Mrs. Roberts provided a list of Hospitalists practicing at St. Vincent's Medical Center from which the Roberts could choose a Hospitalist to care for Mrs. Roberts.

71. St. Vincent's Medical Center assigned Dr. Pavlat to provide medical care to Mrs. Roberts.

72. Neither Mr. Roberts nor Mrs. Roberts had ever heard of, seen, or talked to Dr. Pavlat, prior to his being assigned by St. Vincent's Medical Center to provide medical care to Mrs. Roberts.

73. At all times material, Dr. Pavlat was an apparent agent of St. Vincent's Medical Center and was acting within the scope and course of and/or with the apparent agency or authority of St. Vincent's Medical Center and in furtherance of the business pursuits of St. Vincent's Medical Center.

74. By virtue of the representations and actions of St. Vincent's Medical Center, including but not limited to those set forth above, the Roberts justifiably and reasonably believed that Dr. Pavlat was an agent of and had authority to act for St. Vincent's Medical Center.

75. Any reasonable person would believe that St. Vincent's Medical Center was responsible for the provision of the services it so prominently advertised and touted, including

the services provided to Mrs. Roberts by Dr. Pavlat.

76. St. Vincent's Medical Center is liable to Mrs. Roberts for all damages caused by the negligence of Dr. Pavlat.

77. On March 17, 2011, plaintiffs timely served on the defendant, St. Vincent's Medical Center, by certified U.S. mail, return-receipt requested, a legally sufficient Notice of Intent to Initiate Litigation for Medical Malpractice.

78. Included in the Notice of Intent to Initiate Litigation for Medical Malpractice that the plaintiffs served on St. Vincent's Medical Center was a legally sufficient Verified Written Medical Expert Opinion which corroborated reasonable grounds to support a claim of medical negligence involving the care rendered by Dr. Pavlat.

79. On June 15, 2011, St. Vincent's Medical Center, through counsel, rejected the plaintiffs' claims.

WHEREFORE, the plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, demands judgment against St. Vincent's Medical Center for all damages provided at law.

COUNT SIX

(Consortium Claim of Darrell Roberts against St. Vincent's Medical Center, Inc.)

Plaintiff, Darrell Roberts, individually, sues the defendant, St. Vincent's Medical Center, and says:

80. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT FIVE from above as if each such allegation were more fully set forth herein.

81. As a result of the negligence of Dr. Pavlat and the injuries sustained by Margaret Roberts that were caused thereby, Darrell Roberts has been and will continue to be deprived of

the support, services, companionship, comfort, society and attentions of his wife. Such losses are permanent and continuing in nature.

WHEREFORE, the plaintiff Darrell Roberts demands judgment against St. Vincent's Medical Center for all damages provided at law.

COUNT SEVEN
(Medical Malpractice of Dr. Moore)

Plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, sues the defendant, Benjamin E. Moore, M.D., and says:

82. Plaintiff hereby incorporates by this reference the COMMON ALLEGATIONS from above as if each such allegation were more fully set forth herein.

83. At all times material hereto, Dr. Moore was licensed to practice medicine by the State of Florida and was doing so in Duval County, Florida.

84. On August 23, 2010, Mrs. Roberts came under the care of Dr. Moore.

85. At all times material, Dr. Moore held himself out as a physician specializing in the field of Neurology.

86. At all times material, Dr. Moore owed Mrs. Roberts a duty to exercise that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, was recognized as acceptable and appropriate by reasonably careful physicians caring for a patient, such as Mrs. Roberts, presenting with Venous Thromboembolic disease and associated neurologic symptoms.

87. The care, skill, and treatment Dr. Moore provided Mrs. Roberts fell beneath that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably careful similar health care providers

caring for a patient, such as Mrs. Roberts, with confirmed Venous Thromboembolic disease and associated neurologic symptoms.

88. The injuries suffered by Mrs. Roberts were the direct and proximate result of the negligence of Dr. Moore and of his failure to comply with the accepted standards of care as contemplated by the applicable Florida Statutes. Dr. Moore's negligence included, but is not limited to, the following:

- a. Dr. Moore failed to adequately and timely recognize, appreciate, evaluate and/or investigate the neurological symptoms Mrs. Roberts was noted to have exhibited during her hospitalization at St. Vincent's Medical Center from the time of her admission on August 23, 2010, until the moment that she suffered the Left Middle Cerebral Artery infarct on August 25, 2010;
- b. Dr. Moore failed to timely recognize, appreciate, investigate and/or consider Mrs. Roberts' known Venous Thromboembolic disease as the cause of Mrs. Roberts' neurological symptoms;
- c. Dr. Moore attributed Mrs. Roberts' left-sided weakness to and was treating her for Carpal Tunnel Syndrome, a condition which Mrs. Roberts did not have;
- d. Dr. Moore failed to adequately, timely, and specifically order or recommend appropriate diagnostic testing (e.g., Echocardiogram with Bubble Study) so that it could be determined if there was the shunting of venous blood flow from Mrs. Roberts' right atrium into her left atrium;
- e. Dr. Moore failed to confirm that appropriate diagnostic testing (e.g., Echocardiogram with Bubble Study) had been timely performed to determine if there was shunting of venous bloodflow from Mrs. Roberts' right atrium into her

left atrium; and/or,

f. Dr. Moore failed to timely order appropriate treatment to prevent Mrs. Roberts from suffering catastrophic Paradoxical Embolism.

89. But for the negligence of Dr. Moore, Mrs. Roberts would not have suffered catastrophic Paradoxical Embolism and the consequences resulting therefrom.

90. As a direct and proximate result of the negligence of Benjamin E. Moore, M.D., as alleged herein, Margaret Roberts has suffered and will continue to suffer damages.

91. On March 10, 2011, plaintiffs timely served on the defendant, Benjamin E. Moore, M.D., by certified U.S. mail, return-receipt requested, a legally sufficient Notice of Intent to Initiate Litigation for Medical Malpractice.

92. Included in the Notice of Intent to Initiate Litigation for Medical Malpractice that the plaintiffs served on Dr. Moore was a legally sufficient Verified Written Medical Expert Opinion.

93. On June 8, 2011, Dr. Moore, through counsel, rejected the plaintiffs' claims.

WHEREFORE, the plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, demands judgment against Benjamin E. Moore, M.D., for all damages provided at law.

COUNT EIGHT

(Consortium Claim of Darrell Roberts against Dr. Moore)

Plaintiff, Darrell Roberts, individually, sues the defendant, Benjamin E. Moore, M.D., and says:

94. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT SEVEN from above as if each such allegation were more fully set forth herein.

95. As a result of the negligence of Dr. Moore and the injuries sustained by Margaret Roberts that were caused thereby, Darrell Roberts has been and will continue to be deprived of the support, services, companionship, comfort, society and attentions of his wife. Such losses are permanent and continuing in nature.

WHEREFORE, the plaintiff Darrell Roberts demands judgment against Benjamin E. Moore, M.D., for all damages provided at law.

COUNT NINE

(Vicarious Liability of Benjamin E. Moore, M.D., P.A. for the negligence of Dr. Moore)

Plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, sues the defendant, Benjamin E. Moore, M.D., P.A., and says:

96. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT SEVEN from above as if each such allegation were more fully set forth herein.

97. At all times material hereto, Benjamin E. Moore, M.D., P.A. was a professional association authorized and existing under the laws of the State of Florida with its principal place of business being in Duval County, Florida.

98. At all times material, Dr. Moore was an employee, agent or apparent agent of Benjamin E. Moore, M.D., P.A., and was acting within the scope and course of his employment and/or with the apparent agency or authority of the defendant, Benjamin E. Moore, M.D., P.A.

99. By virtue of the foregoing, defendant Benjamin E. Moore, M.D., P.A., is vicariously liable for any damages caused by the negligence of Dr. Moore, as more fully set forth above.

WHEREFORE, the plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, demands judgment against Benjamin E. Moore, M.D., P.A., for

all damages provided at law.

COUNT TEN

(Consortium Claim of Darrell Roberts against Benjamin E. Moore, M.D., P.A.)

Plaintiff, Darrell Roberts, individually, sues the defendant, Benjamin E. Moore, M.D., P.A., and says:

100. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT NINE from above as if each such allegation were more fully set forth herein.

101. As a result of the negligence of Dr. Moore and the injuries sustained by Margaret Roberts that were caused thereby, Darrell Roberts has been and will continue to be deprived of the support, services, companionship, comfort, society and attentions of his wife. Such losses are permanent and continuing in nature.

WHEREFORE, the plaintiff Darrell Roberts demands judgment against Benjamin E. Moore, M.D., P.A., for all damages provided at law.

COUNT ELEVEN

(Vicarious Liability of St. Vincent's Medical Center for Dr. Moore)

Plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, sues the defendant, St. Vincent's Medical Center, and says:

102. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT SEVEN from above as if each such allegation were more fully set forth herein.

103. Prior to Margaret Roberts' admission on August 23, 2010, St. Vincent's Medical Center publicized and marketed itself to the general public, including the plaintiffs, as being the hospital in Northeast Florida and Southeast Georgia, "Where the Experts Are." St. Vincent's Medical Center also held out to the general public, including the plaintiffs, that:

- i. “Our dedicated emergency room physicians are board certified in emergency medicine, with a supporting team of nurses, technicians, and other staff who have special training in emergency care.” (Emphasis added.)
- ii. “Our doctors and staff at St. Vincent’s Medical Center . . . perform approximately 20,000 cardiovascular procedures each year . . . ; (Emphasis added.)
- iii. “At St. Vincent’s HealthCare, we are committed to our patients, our doctors and staff, and our community. As such, we promise to deliver the very best healthcare, every time.” (Emphasis added.)

104. By making these and other similar representations to the general public, including the plaintiffs, St. Vincent’s Medical Center caused and allowed the Roberts to believe that the physicians assigned to Mrs. Roberts, including Dr. Moore, were agents of and had the authority to act for St. Vincent’s Medical Center.

105. Against this backdrop on August 23, 2010, when Mrs. Roberts became ill and needed medical care, the Roberts justifiably relied on the representations of St. Vincent’s Medical Center and specifically chose to seek medical care from St. Vincent’s Medical Center instead of one of many other local hospitals.

106. Moreover, by virtue of the representations made by or on behalf of St. Vincent’s Medical Center, the Roberts relied on St. Vincent’s Medical Center to provide the expert medical care Mrs. Roberts needed.

107. At no time during Mrs. Roberts’ hospitalization at St. Vincent’s Medical Center were Mr. or Mrs. Roberts given the choice or permitted to give any input in the choice of a

Neurologist.

108. At no time during Mrs. Roberts' hospitalization at St. Vincent's Medical Center were Mr. or Mrs. Roberts provided a list of Neurologists practicing at St. Vincent's Medical Center from which the Roberts could choose a Neurologist to care for Mrs. Roberts.

109. St. Vincent's Medical Center assigned Dr. Moore to provide medical care to Mrs. Roberts.

110. Neither Mr. Roberts nor Mrs. Roberts had ever heard of, seen, or talked to Dr. Moore prior to his being assigned by St. Vincent's Medical Center to provide medical care to Mrs. Roberts.

111. At all times material, Dr. Moore was an apparent agent of St. Vincent's Medical Center and was acting within the scope and course of and/or with the apparent agency or authority of St. Vincent's Medical Center and in furtherance of the business pursuits of St. Vincent's Medical Center.

112. Any reasonable person would believe that St. Vincent's Medical Center was responsible for the provision of the services it so prominently advertised and touted, including the services provided to Mrs. Roberts by Dr. Moore.

113. On March 17, 2011, plaintiffs timely served on the defendant, St. Vincent's Medical Center, by certified U.S. mail, return-receipt requested, a legally sufficient Notice of Intent to Initiate Litigation for Medical Malpractice.

114. Included in the Notice of Intent to Initiate Litigation for Medical Malpractice that the plaintiffs served on St. Vincent's Medical Center was a legally sufficient Verified Written Medical Expert Opinion which corroborated reasonable grounds to support a claim of medical negligence involving the care rendered by Dr. Moore.

115. On June 15, 2011, St. Vincent's Medical Center, through counsel, rejected the plaintiffs' claims.

116. St. Vincent's Medical Center is liable to Mrs. Roberts for all damages caused by the negligence of Dr. Moore.

WHEREFORE, the plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, demands judgment against St. Vincent's Medical Center for all damages provided at law.

COUNT TWELVE

(Consortium Claim of Darrell Roberts against St. Vincent's Medical Center, Inc.)

Plaintiff, Darrell Roberts, individually, sues the defendant, St. Vincent's Medical Center, and says:

117. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT ELEVEN from above as if each such allegation were more fully set forth herein.

118. As a result of the negligence of Dr. Moore and the injuries sustained by Margaret Roberts that were caused thereby, Darrell Roberts has been and will continue to be deprived of the support, services, companionship, comfort, society and attentions of his wife. Such losses are permanent and continuing in nature.

WHEREFORE, the plaintiff Darrell Roberts demands judgment against St. Vincent's Medical Center for all damages provided at law.

COUNT THIRTEEN

(Medical Malpractice of Dr. Pilcher)

Plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, sues the defendant, William C. Pilcher, M.D., and says:

119. Plaintiff hereby incorporates by this reference the COMMON ALLEGATIONS from above as if each such allegation were more fully set forth herein.

120. At all times material hereto, Dr. Pilcher was licensed to practice medicine by the State of Florida and was doing so in Duval County, Florida.

121. On August 23, 2010, Mrs. Roberts came under the care of Dr. Pilcher.

122. At all times material, Dr. Pilcher held board certification in the specialties of Internal Medicine and Cardiovascular Disease.

123. At all times material, Dr. Pilcher owed Mrs. Roberts a duty to exercise that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, was recognized as acceptable and appropriate by reasonably careful physicians caring for a patient, such as Mrs. Roberts, presenting with confirmed Venous Thromboembolic disease and associated neurologic symptoms.

124. The care, skill, and treatment Dr. Pilcher provided Mrs. Roberts fell beneath that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably careful similar health care providers caring for a patient, such as Mrs. Roberts, with confirmed Venous Thromboembolic disease and associated neurologic symptoms.

125. The injuries suffered by Mrs. Roberts were the direct and proximate result of the negligence of Dr. Pilcher and of his failure to comply with the accepted standards of care as contemplated by the applicable Florida Statutes. Dr. Pilcher's negligence included, but was not limited to, the following:

- a. Dr. Pilcher failed to adequately and timely recognize, appreciate, evaluate and/or investigate the neurological symptoms he noted Mrs. Roberts to have exhibited

during her hospitalization at St. Vincent's Medical Center from the time of her admission on August 23, 2010, until the moment that she suffered the Left Middle Cerebral Artery infarct on August 25, 2010;

- b. Dr. Pilcher failed to timely recognize, appreciate, investigate and/or consider Mrs. Roberts' known Venous Thromboembolic disease as the cause of Mrs. Roberts' neurological symptoms;
- c. Dr. Pilcher failed to adequately, timely, and specifically recommend, order or perform appropriate diagnostic testing (e.g., Echocardiogram with Bubble Study) so that it could be determined if there was the shunting of venous blood flow from Mrs. Roberts' right atrium into her left atrium;
- d. Dr. Pilcher failed to confirm that appropriate diagnostic testing (e.g., Echocardiogram with Bubble Study) had been timely performed to determine if there was shunting of venous blood flow from Mrs. Roberts' right atrium into her left atrium; and/or,
- e. Dr. Pilcher failed to timely order appropriate treatment to prevent Mrs. Roberts from suffering catastrophic Paradoxical Embolism.

126. But for the negligence of Dr. Pilcher, Margaret Roberts would not have suffered catastrophic Paradoxical Embolism and the consequences resulting therefrom.

127. As a direct and proximate result of the negligence of Dr. Pilcher, as alleged herein, Margaret Roberts has suffered and will continue to suffer damages.

128. On March 8, 2011, plaintiffs timely served on the defendant, William C. Pilcher, M.D., by certified U.S. mail, return-receipt requested, a legally sufficient Notice of Intent to Initiate Litigation for Medical Malpractice.

129. Included in the Notice of Intent to Initiate Litigation for Medical Malpractice that the plaintiffs served on Dr. Pilcher was a legally sufficient corroborating Verified Written Medical Expert Opinion.

130. On June 7, 2011, Dr. Pilcher, through counsel, rejected the plaintiffs' claims.

WHEREFORE, the plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, demands judgment against William C. Pilcher, M.D., for all damages provided at law.

COUNT FOURTEEN

(Consortium Claim of Darrell Roberts against Dr. Pilcher)

Plaintiff, Darrell Roberts, individually, sues the defendant, William C. Pilcher, M.D., and says:

131. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT THIRTEEN from above as if each such allegation were more fully set forth herein.

132. As a result of the negligence of Dr. Pilcher and the injuries sustained by Margaret Roberts that were caused thereby, Darrell Roberts has been and will continue to be deprived of the support, services, companionship, comfort, society and attentions of his wife. Such losses are permanent and continuing in nature.

WHEREFORE, the plaintiff Darrell Roberts demands judgment against William C. Pilcher, M.D., for all damages provided at law.

COUNT FIFTEEN

(Vicarious Liability of Diagnostic Cardiology Associates for the negligence of Dr. Pilcher)

Plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, sues the defendant, Southern Heart Group, P.A., doing business as Diagnostic

Cardiology Associates, and says:

133. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT THIRTEEN from above as if each such allegation were more fully set forth herein.

134. At all times material hereto, Southern Heart Group, P.A., was authorized and existing under the laws of the State of Florida and doing business as Diagnostic Cardiology Associates.

135. At all times material, Dr. Pilcher was an employee, agent or apparent agent of Diagnostic Cardiology Associates and was acting within the scope and course of his employment and/or with the apparent agency or authority of the defendant, Diagnostic Cardiology Associates.

136. By virtue of the foregoing, defendant Diagnostic Cardiology Associates is vicariously liable for any damages caused by the negligence of Dr. Pilcher, as more fully set forth above.

137. On March 8, 2011, plaintiffs timely served on the defendant, William C. Pilcher, M.D., and defendant Diagnostic Cardiology Associates by certified U.S. mail, return-receipt requested, a legally sufficient Notice of Intent to Initiate Litigation for Medical Malpractice.

138. Included in the Notice of Intent to Initiate Litigation for Medical Malpractice that the plaintiffs served on Diagnostic Cardiology Associates was a legally sufficient Verified Written Medical Expert Opinion which corroborated reasonable grounds to support a claim of medical negligence involving the care rendered by Dr. Pilcher.

139. On June 7, 2011, Southern Heart Group, P.A., doing business as Diagnostic Cardiology Associates, through counsel, rejected the plaintiffs' claims.

WHEREFORE, the plaintiff Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, demands judgment against Southern Heart Group, P.A., doing

business as Diagnostic Cardiology Associates, for all damages provided at law.

COUNT SIXTEEN

(Consortium Claim of Darrell Roberts against Diagnostic Cardiology Associates)

Plaintiff, Darrell Roberts, individually, sues the defendant, Southern Heart Group, P.A., doing business as Diagnostic Cardiology Associates, and says:

140. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT FIFTEEN from above as if each such allegation were more fully set forth herein.

141. As a result of the negligence of Dr. Pilcher and the injuries sustained by Margaret Roberts that were caused thereby, Darrell Roberts has been and will continue to be deprived of the support, services, companionship, comfort, society and attentions of his wife. Such losses are permanent and continuing in nature.

WHEREFORE, the plaintiff Darrell Roberts demands judgment against Southern Heart Group, P.A., doing business as Diagnostic Cardiology Associates, for all damages provided at law.

COUNT SEVENTEEN

(Vicarious Liability of St. Vincent's Medical Center for Dr. Pilcher)

Plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, sues the defendant, St. Vincent's Medical Center, and says:

142. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT THIRTEEN from above as if each such allegation were more fully set forth herein.

143. Prior to Margaret Roberts' admission on August 23, 2010, St. Vincent's Medical Center publicized and marketed itself to the general public, including the plaintiffs, as being the hospital in Northeast Florida and Southeast Georgia, "Where the Experts Are." St. Vincent's

Medical Center also held out to the general public, including the plaintiffs, that:

- i. “**Our** dedicated emergency room physicians are board certified in emergency medicine, with a supporting team of nurses, technicians, and other staff who have special training in emergency care.” (**Emphasis** added.)
- ii. “**Our** doctors and staff at St. Vincent’s Medical Center . . . perform approximately 20,000 cardiovascular procedures each year . . . ; (**Emphasis** added.)
- iii. “At St. Vincent’s HealthCare, we are committed to our patients, **our** doctors and staff, and our community. As such, **we** promise to deliver the very best healthcare, every time.” (**Emphasis** added.)

144. By making these and other similar representations to the general public, including the plaintiffs, St. Vincent’s Medical Center caused and allowed the Roberts to believe that the physicians assigned to Mrs. Roberts, including Dr. Pilcher, were agents of and had the authority to act for St. Vincent’s Medical Center.

145. Against this backdrop on August 23, 2010, when Mrs. Roberts became ill and needed medical care, the Roberts justifiably relied on the representations of St. Vincent’s Medical Center and specifically chose to seek medical care from St. Vincent’s Medical Center instead of one of many other local hospitals.

146. Moreover, by virtue of the representations made by or on behalf of St. Vincent’s Medical Center, the Roberts relied on St. Vincent’s Medical Center to provide the expert specialists Mrs. Roberts needed.

147. At no time during Mrs. Roberts’ hospitalization at St. Vincent’s Medical Center

were Mr. or Mrs. Roberts given the choice or permitted to give any input in the choice of a Cardiologist.

148. At no time during Mrs. Roberts' hospitalization at St. Vincent's Medical Center were Mr. or Mrs. Roberts provided a list of Cardiologists practicing at St. Vincent's Medical Center from which the Roberts could choose a Cardiologist to care for Mrs. Roberts.

149. St. Vincent's Medical Center assigned Dr. Pilcher to provide medical care to Mrs. Roberts.

150. Neither Mr. Roberts nor Mrs. Roberts had ever heard of, seen, or talked to Dr. Pilcher prior to his being assigned by St. Vincent's Medical Center to provide medical care to Mrs. Roberts.

151. At all times material, Dr. Pilcher was an apparent agent of St. Vincent's Medical Center and was acting within the scope and course of and/or with the apparent agency or authority of St. Vincent's Medical Center and in furtherance of the business pursuits of St. Vincent's Medical Center.

152. Any reasonable person would believe that St. Vincent's Medical Center was responsible for the provision of the services it so prominently advertised and touted, including the services provided to Mrs. Roberts by Dr. Pilcher.

153. St. Vincent's Medical Center is liable to Mrs. Roberts for all damages caused by the negligence of Dr. Pilcher.

154. On March 17, 2011, plaintiffs timely served on the defendant, St. Vincent's Medical Center, by certified U.S. mail, return-receipt requested, a legally sufficient Notice of Intent to Initiate Litigation for Medical Malpractice.

155. Included in the Notice of Intent to Initiate Litigation for Medical Malpractice that

the plaintiffs served on St. Vincent's Medical Center was a legally sufficient Verified Written Medical Expert Opinion which corroborated reasonable grounds to support a claim of medical negligence involving the care rendered by Dr. Pilcher.

156. On June 15, 2011, St. Vincent's Medical Center, through counsel, rejected the plaintiffs' claims.

WHEREFORE, the plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, demands judgment against St. Vincent's Medical Center for all damages provided at law.

COUNT EIGHTEEN

(Consortium Claim of Darrell Roberts against St. Vincent's Medical Center, Inc.)

Plaintiff, Darrell Roberts, individually, sues the defendant, St. Vincent's Medical Center, and says:

157. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT SEVENTEEN from above as if each such allegation were more fully set forth herein.

158. As a result of the negligence of Dr. Pilcher and the injuries sustained by Margaret Roberts that were caused thereby, Darrell Roberts has been and will continue to be deprived of the support, services, companionship, comfort, society and attentions of his wife. Such losses are permanent and continuing in nature.

WHEREFORE, the plaintiff Darrell Roberts demands judgment against St. Vincent's Medical Center for all damages provided at law.

COUNT NINETEEN
(Medical Malpractice of Dr. Szwed)

Plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, sues the defendant, Thomas W. Szwed, M.D., and says:

159. Plaintiff hereby incorporates by this reference the COMMON ALLEGATIONS from above as if each such allegation were more fully set forth herein.

160. At all times material hereto, Dr. Szwed was licensed to practice medicine by the State of Florida and was doing so in Duval County, Florida.

161. On August 23, 2010, Mrs. Roberts came under the care of Dr. Szwed.

162. At all times material, Dr. Szwed held board certification in the specialty of Internal Medicine and the subspecialty of Pulmonary Disease.

163. At all times material, Dr. Szwed owed Mrs. Roberts a duty to exercise that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, was recognized as acceptable and appropriate by reasonably careful physicians caring for a patient, such as Mrs. Roberts, presenting with confirmed Venous Thromboembolic disease and associated neurologic symptoms.

164. The care, skill, and treatment Dr. Szwed provided Mrs. Roberts fell beneath that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably careful similar health care providers caring for a patient, such as Mrs. Roberts, with confirmed Venous Thromboembolic disease and associated neurologic symptoms.

165. The injuries suffered by Mrs. Roberts were the direct and proximate result of the negligence of Dr. Szwed and of his failure to comply with the accepted standards of care as contemplated by the applicable Florida Statutes. Dr. Szwed's negligence included, but was not

limited to, the following:

- a. Dr. Szwed failed to adequately and timely recognize, appreciate, evaluate and/or investigate the neurological symptoms Mrs. Roberts was noted to have exhibited during her hospitalization at St. Vincent's Medical Center from the time of her admission on August 23, 2010, until the moment that she suffered the Left Middle Cerebral Artery infarct on August 25, 2010;
- b. Dr. Szwed failed to timely recognize, appreciate, investigate and/or consider Mrs. Roberts' known Venous Thromboembolic disease as the cause of Mrs. Roberts' neurological symptoms;
- c. Dr. Szwed failed to adequately, timely, and specifically recommend or order appropriate diagnostic testing (e.g., Echocardiogram with Bubble Study) so that it could be determined if there was the shunting of venous blood flow from Mrs. Roberts' right atrium into her left atrium;
- d. Dr. Szwed failed to confirm that appropriate diagnostic testing (e.g., Echocardiogram with Bubble Study) had been timely performed to determine if there was shunting of venous blood flow from Mrs. Roberts' right atrium into her left atrium; and/or,
- e. Dr. Szwed failed to timely order appropriate treatment to prevent Mrs. Roberts from suffering catastrophic Paradoxical Embolism.

166. But for the negligence of Dr. Szwed, Margaret Roberts would not have suffered catastrophic Paradoxical Embolism and the consequences resulting therefrom.

167. As a direct and proximate result of the negligence of Dr. Szwed, as alleged herein, Margaret Roberts has suffered and will continue to suffer damages.

168. On March 8, 2011, plaintiffs timely served on the defendant, Thomas W. Szwed, M.D., by certified U.S. mail, return-receipt requested, a legally sufficient Notice of Intent to Initiate Litigation for Medical Malpractice.

169. Included in the Notice of Intent to Initiate Litigation for Medical Malpractice that the plaintiffs served on Dr. Szwed was a legally sufficient corroborating Verified Written Medical Expert Opinion.

170. On June 2, 2011, Dr. Szwed, through counsel, rejected the plaintiffs' claims.

WHEREFORE, the plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, demands judgment against Thomas W. Szwed, M.D., for all damages provided at law.

COUNT TWENTY

(Consortium Claim of Darrell Roberts against Dr. Szwed)

Plaintiff, Darrell Roberts, individually, sues the defendant, Thomas W. Szwed, M.D., and says:

171. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT NINETEEN from above as if each such allegation were more fully set forth herein.

172. As a result of the negligence of Dr. Szwed and the injuries sustained by Margaret Roberts that were caused thereby, Darrell Roberts has been and will continue to be deprived of the support, services, companionship, comfort, society and attentions of his wife. Such losses are permanent and continuing in nature.

WHEREFORE, the plaintiff Darrell Roberts demands judgment against Thomas W. Szwed, M.D., for all damages provided at law.

COUNT TWENTY-ONE

(Vicarious Liability of North Florida Chest Physicians for the negligence of Dr. Szwed)

Plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, sues the defendant, North Florida Chest Physicians, P.A., and says:

173. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT NINETEEN from above as if each such allegation were more fully set forth herein.

174. At all times material hereto, North Florida Chest Physicians, P.A., was a professional association authorized and existing under the laws of the State of Florida with its principal place of business being in Duval County, Florida.

175. At all times material, Dr. Szwed was an employee, agent or apparent agent of North Florida Chest Physicians, P.A., and was acting within the scope and course of his employment and/or with the apparent agency or authority of the defendant, North Florida Chest Physicians, P.A.

176. By virtue of the foregoing, defendant North Florida Chest Physicians, P.A., is vicariously liable for any damages caused by the negligence of Dr. Szwed, as more fully set forth above.

177. On March 8, 2011, plaintiffs timely served on the defendant, Thomas W. Szwed, M.D., and defendant North Florida Chest Physicians, P.A., by certified U.S. mail, return-receipt requested, a legally sufficient Notice of Intent to Initiate Litigation for Medical Malpractice.

178. Included in the Notice of Intent to Initiate Litigation for Medical Malpractice that the plaintiffs served on North Florida Chest Physicians, P.A., was a legally sufficient Verified Written Medical Expert Opinion which corroborated reasonable grounds to support a claim of medical negligence involving the care rendered by Dr. Szwed.

179. On June 2, 2011, North Florida Chest Physicians, P.A., through counsel, rejected

the plaintiffs' claims.

WHEREFORE, the plaintiff, MARGARET ROBERTS, an incapacitated adult, by and through her guardian, Darrell Roberts, demands judgment against North Florida Chest Physicians, P.A., for all damages provided at law.

COUNT TWENTY-TWO

(Consortium Claim of Darrell Roberts against North Florida Chest Physicians)

Plaintiff, Darrell Roberts, individually, sues the defendant, North Florida Chest Physicians, P.A., and says:

180. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT TWENTY-ONE from above as if each such allegation were more fully set forth herein.

181. As a result of the negligence of Dr. Szwed and the injuries sustained by Margaret Roberts that were caused thereby, Darrell Roberts has been and will continue to be deprived of the support, services, companionship, comfort, society and attentions of his wife. Such losses are permanent and continuing in nature.

WHEREFORE, the plaintiff Darrell Roberts demands judgment against North Florida Chest Physicians, P.A., for all damages provided at law and trial by jury of all issues so triable.

COUNT TWENTY-THREE

(Vicarious Liability of St. Vincent's Medical Center for Dr. Szwed)

Plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, sues the defendant, St. Vincent's Medical Center, and says:

182. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT NINETEEN from above as if each such allegation were more fully set forth herein.

183. Prior to Margaret Roberts' admission on August 23, 2010, St. Vincent's Medical

Center publicized and marketed itself to the general public, including the plaintiffs, as being the hospital in Northeast Florida and Southeast Georgia, “Where the Experts Are.” St. Vincent’s Medical Center also held out to the general public, including the plaintiffs, that:

- i. “**Our** dedicated emergency room physicians are board certified in emergency medicine, with a supporting team of nurses, technicians, and other staff who have special training in emergency care.” (**Emphasis** added.)
- ii. “**Our** doctors and staff at St. Vincent’s Medical Center . . . perform approximately 20,000 cardiovascular procedures each year . . . ; (**Emphasis** added.)
- iii. “At St. Vincent’s HealthCare, we are committed to our patients, **our** doctors and staff, and our community. As such, **we** promise to deliver the very best healthcare, every time.” (**Emphasis** added.)

184. By making these and other similar representations to the general public, including the plaintiffs, St. Vincent’s Medical Center caused and allowed the Roberts to believe that the physicians assigned to Mrs. Roberts, including Dr. Szwed, were agents of and had the authority to act for St. Vincent’s Medical Center.

185. Against this backdrop on August 23, 2010, when Mrs. Roberts became ill and needed medical care, the Roberts justifiably relied on the representations of St. Vincent’s Medical Center and specifically chose to seek medical care from St. Vincent’s Medical Center instead of one of many other local hospitals.

186. Moreover, by virtue of the representations made by or on behalf of St. Vincent’s Medical Center, the Roberts relied on St. Vincent’s Medical Center to provide the expert

medical care Mrs. Roberts needed.

187. At no time during Mrs. Roberts' hospitalization at St. Vincent's Medical Center were Mr. or Mrs. Roberts given the choice or permitted to give any input in the choice of a Pulmonologist.

188. At no time during Mrs. Roberts' hospitalization at St. Vincent's Medical Center were Mr. or Mrs. Roberts provided a list of Pulmonologists practicing at St. Vincent's Medical Center from which the Roberts could choose a Pulmonologist to care for Mrs. Roberts.

189. St. Vincent's Medical Center assigned Dr. Szwed to provide medical care to Mrs. Roberts.

190. Neither Mr. Roberts nor Mrs. Roberts had ever heard of, seen, or talked to Dr. Szwed prior to his being assigned by St. Vincent's Medical Center to provide medical care to Mrs. Roberts.

191. At all times material, Dr. Szwed was an apparent agent of St. Vincent's Medical Center and was acting within the scope and course of and/or with the apparent agency or authority of St. Vincent's Medical Center and in furtherance of the business pursuits of St. Vincent's Medical Center.

192. Any reasonable person would believe that St. Vincent's Medical Center was responsible for the provision of the services it so prominently advertised and touted, including the services provided to Mrs. Roberts by Dr. Szwed.

193. St. Vincent's Medical Center is liable to Mrs. Roberts for all damages caused by the negligence of Dr. Szwed.

194. On March 17, 2011, plaintiffs timely served on the defendant, St. Vincent's Medical Center, by certified U.S. mail, return-receipt requested, a legally sufficient Notice of

Intent to Initiate Litigation for Medical Malpractice.

195. Included in the Notice of Intent to Initiate Litigation for Medical Malpractice that the plaintiffs served on St. Vincent's Medical Center was a legally sufficient Verified Written Medical Expert Opinion which corroborated reasonable grounds to support a claim of medical negligence involving the care rendered by Dr. Szwed.

196. On June 15, 2011, St. Vincent's Medical Center, through counsel, rejected the plaintiffs' claims.

WHEREFORE, the plaintiff, Margaret Roberts, an incapacitated adult, by and through her guardian, Darrell Roberts, demands judgment against St. Vincent's Medical Center for all damages provided at law.

COUNT TWENTY-FOUR

(Consortium Claim of Darrell Roberts against St. Vincent's Medical Center, Inc.)

Plaintiff, Darrell Roberts, individually, sues the defendant, St. Vincent's Medical Center, and says:

197. Plaintiff hereby incorporates by this reference the enumerated allegations of COUNT TWENTY-THREE from above as if each such allegation were more fully set forth herein.

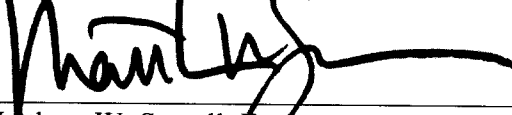
198. As a result of the negligence of Dr. Szwed and the injuries sustained by Margaret Roberts that were caused thereby, Darrell Roberts has been and will continue to be deprived of the support, services, companionship, comfort, society and attentions of his wife. Such losses are permanent and continuing in nature.

WHEREFORE, the plaintiff Darrell Roberts demands judgment against St. Vincent's Medical Center for all damages provided at law.

DEMAND FOR JURY TRIAL

Plaintiffs each demand a trial by jury of all issues so triable.

MATTHEW W. SOWELL, P.A.



Matthew W. Sowell, Esq.

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And

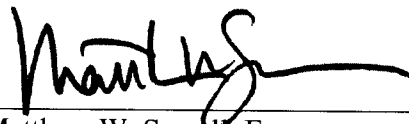
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Co-Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Amended Complaint was furnished to the following counsel this 27th day of November, 2012:

Michael H. Harmon, Esq. Smith Hulsey & Busey <i>Attorneys for St. Vincent's Medical Center</i>	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax <input checked="" type="checkbox"/> Email	225 Water Street, Suite 1800 Jacksonville, FL 32202 904-359-7708 mharmon@smithhulsey.com sjohnson@smithhulsey.com kstewart@smithhulsey.com
Jeptha F. Barbour, Esq. Marks Gray, P.A. <i>Attorneys for Dr. Pilcher and Diagnostic Cardiology Associates</i>	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax <input checked="" type="checkbox"/> Email	P.O. Box 447 Jacksonville, FL 32201-0447 904-399-8440 jbarbour@marksgray.com dboss@marksgray.com
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Tiffany Rohan-Williams, Esq. Dennis, Jackson, Martin & Fontela, P.A. <i>Attorneys for Dr. Moore and Benjamin E. Moore, P.A.</i>	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax <input checked="" type="checkbox"/> Email	1591 Summit Lake Dr., Suite 200 Tallahassee, FL 32317 850-422-1325 tiffany@djmf-law.com niki@djmf-law.com cacia@djmf-law.com



Matthew W. Sowell, Esq.