

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
DIVISION NO. _____
CASE NUMBER _____

THE ESTATE OF STAR IFEACHO by and through
The Administrator of his estate, PEACE IFEACHO, and
PEACE IFEACHO, individually

PLAINTIFFS

V.

COMPLAINT

CODY BEGLEY, in his Individual Capacity and in his
Official Capacity as Athletic Trainer at Paul Laurence Dunbar
High School

DEFENDANTS

Serve: UKHC Sports Medicine – Turfland
2195 Harrodsburg Road, Suite 125
Lexington, Kentucky 40508

GABRIELLE SOMBELON, in her Individual Capacity and in her
Official Capacity as Athletic Trainer at Paul Laurence Dunbar
High School

Serve: 12120 Chive Street
Orlando, Florida 32837-9510
VIA SECRETARY OF STATE

SCOTT CHALK in his Individual Capacity and in his
Official Capacity as Men’s Basketball Head Coach and
Athletic Director at Paul Laurence Dunbar High School

Serve: Paul Laurence Dunbar High School
1600 Man O War Blvd, Lexington, KY 40513

CHRIS M. ARMSTRONG in his Individual Capacity and in his
Official Capacity as Assistant Men’s Basketball Coach at Paul
Laurence Dunbar High School

Serve: 5606 Scioto Crest Drive
Unit 203
Dublin, Ohio 43017
VIA SECRETARY OF STATE

DONNA MARTIN in her Individual Capacity and in her Official Capacity
As Athletic Director at Paul Laurence Dunbar High School

Serve: Paul Laurence Dunbar High School
1600 Man O War Blvd, Lexington, KY 40513

Presiding Judge: HON. KIMBERLY BUNNELL (622203)

COM : 000001 of 000020

BETSY RAINS in her Individual Capacity and in her Official Capacity
As Principal of Paul Laurence Dunbar High School
Serve: Paul Laurence Dunbar High School
1600 Man O War Blvd, Lexington, KY 40513

And

EMMANUAL CAULK in his Individual Capacity and in his Official
Capacity as Superintendent of Fayette County Public Schools
Serve: Fayette County Public Schools
701 East Main Street
Lexington, Kentucky 40502

PARTIES AND JURISDICTION

1. At all times relevant hereto, Star Ifeacho, a minor, deceased and his parent and Administrator of his Estate, Peace Ifeacho, are and were residents of Lexington, Fayette County, Kentucky.

2. The Defendant, Cody Begley, individually and in his official capacity as an athletic trainer at Paul Laurence Dunbar High School, as well as an employee of the University of Kentucky Medical Center, is and was at all times a resident of Lexington, Fayette County, Kentucky, who can be served at UKHC Sports Medicine – Turfland, 2195 Harrodsburg Road, Suite 125, Lexington, Kentucky 40508.

3. The Defendant, Gabrielle Sombelon, individually and in her official capacity as an athletic trainer at Paul Laurence Dunbar High School, as well as an employee of the University of Kentucky Medical Center, is and was at all times a resident of Lexington,

Fayette County, Kentucky, who can be served at 12120 Chive Street, Orlando, Florida 32837-9510, VIA SECRETARY OF STATE.

4. The Defendant, Scott Chalk, in his Individual Capacity and in his Official Capacity as Men's Basketball Head Coach and Athletic Director at Paul Laurence Dunbar High School, is and was at all times a resident of Lexington, Fayette County, Kentucky, who can be served at Paul Laurence Dunbar High School, 1600 Man O War Blvd, Lexington, Kentucky 40513.

5. The Defendant, Chris M. Armstrong, in his Individual Capacity and in his Official Capacity as Assistant Men's Basketball Coach at Paul Laurence Dunbar High School, is and was at all times a resident of Lexington, Fayette County, Kentucky, who can be served at 5606 Scioto Crest Drive, Unit 203, Dublin, Ohio 43017.

6. The Defendant, Donna Martin, in her Individual Capacity and in her Official Capacity as Athletic Director at Paul Laurence Dunbar High School, is and was at all times a resident of Lexington, Fayette County, Kentucky, who can be served at Paul Laurence Dunbar High School, 1600 Man O War Blvd, Lexington, Kentucky 40513.

7. The Defendant, Betsy Rains, in her Individual Capacity and in her Official Capacity as the Principal at Paul Laurence Dunbar High School, is and was at all times a resident of Lexington, Fayette County, Kentucky, who can be served at Paul Laurence Dunbar High School, 1600 Man O War Blvd, Lexington, Kentucky 40513.

8. The Defendant, Emmanuel Caulk, in his Individual Capacity and in his Official Capacity as Superintendent of Fayette County Public Schools, is and was at all times a resident of Lexington, Fayette County, Kentucky who can be served at Fayette County Public Schools, 701 East Main Street, Lexington, Kentucky 40502.

9. All matters related to the above-styled action arise from general, gross, reckless and negligent behavior by the Defendants, their employees, agents, servants and assigns individually and/or during the course and scope of their employment with Fayette County Public Schools, during the 2016-2017 school year, and involving a student, the decedent, Star Ifeacho, under the care, custody and control of the Defendants, jointly and/or individually.

10. As a direct result of the ministerial, gross, reckless and negligent conduct of the Defendants, jointly and individually, the Defendants caused the decedent, Star Ifeacho, to be denied prompt and necessary medical care per their own ministerial standards, resulting in his suffering and death and all damages are in excess of the jurisdictional limits of this Court.

11. As a further direct result of the ministerial, gross, reckless and negligent conduct of the Defendants, jointly and individually, the Defendants caused the Plaintiff, Peace Ifeacho, to suffer the loss of consortium of her minor child, Star Ifeacho, all such damages being well in excess of the jurisdictional limits of this Court.

12. All causes of action arise from the wrongful death of Star Ifeacho on or about April 26, 2017 at Paul Laurence Dunbar High School in Lexington, Fayette County Kentucky.

FACTS

13. At all times relevant hereto, KRS 311.667 required medical oversight of any AED program by a physician licensed in Kentucky to provide oversight and to establish protocols for AED deployment.

14. Per the above-referenced statute, Fayette County Public Schools had in full force and effect ministerial policies and procedures which related to the use of AEDs (Automatic External Defibrillators). Pursuant to these ministerial policies and procedures, a physician

Presiding Judge: HON. KIMBERLY BUNNELL (622203)

COM : 000004 of 000020

licensed in Kentucky was to establish protocols for AED deployment at the request of the Division of Risk Management and Safety. This included a warning that AEDs were to be used exclusively by individuals with proper training and certification.

15. The AEDs were to be placed in the schools based upon an optimal response time of three (3) minutes or less. The ministerial AED protocols stated that the “optimal response time is three (3) minutes or less. This interval begins at the moment a victim is identified as needing emergency care and ends at the moment the AED is at the victim’s side. Survival rates decrease by 7%-10% for every minute defibrillation is delayed.” Fayette County Public Schools Facilities Policies and Procedures Section 05.4 AP.1.

16. Pursuant to the Bylaws of the Kentucky High School Athletic Association, “All coaches (head and assistant) at any level in all sanctioned sports and sports activities (including cheerleading) shall provide documentation of successful completion of a CPR course including the use of an Automatic External Defibrillator....” KHSAA Bylaw 25, Section 3.

17. Paul Laurence Dunbar had two AEDs on campus, one in the main building on the wall across from the door to the main office; the other in the athletic training room near the back left corner of the gymnasium. Schedule B-1 “Selection and Placement of AEDS Within Fayette County Public Schools.”

18. On the date which is the subject matter of this claim, there was no AED in the training room. It had been removed by Defendant Gabrielle Sombelon and taken outside to the baseball field.

19. The Medtronic Lifepak CR Plus AEDs purchased by Fayette County Public Schools were provided with specific, ministerial, non-discretionary protocols and mandates.

The Athletic trainer is to confirm the unresponsiveness of the victim, activate the emergency systems, retrieve the AED, and CPR and AED procedures are to be initiated until EMS arrives. At all times relevant hereto, the decedent was participating in school basketball team activities with members of the coaching staff present.

20. On or about April 26, 2017, the decedent, 15-year-old Star Ifeacho, was practicing with the Dunbar men's basketball team in the gymnasium and Defendant Armstrong was present. At some point during the practice, decedent Star Ifeacho complained to Coach Armstrong of being light headed, having trouble breathing, and that his heart was racing.

21. Star called his mother, Peace Ifeacho, at 4:19 p.m. and asked her to come pick him up from practice.

22. Peace Ifeacho arrived at the back door of the gym at 4:37 p.m. and was greeted by two students who informed her that Star had passed out in the training room. EMS was not present when she arrived and the AED was not in the training room or in use at the time she arrived.

23. Video surveillance which is time-stamped was kept in multiple areas of the school. This video shows that at 3:54 p.m. athletes were arriving in the gym and shooting basketballs, after which time drills were begun.

24. At 4:24 p.m. the video shows decedent Star Ifeacho playing 2 on 2 with three other students. Shortly thereafter, Star Ifeacho is shown walking back toward the training room. He described the same physical complaints to Defendant Begley as he had earlier to Defendant Armstrong. At approximately 4:36 p.m. the video shows Defendant Armstrong running toward the training room. Peace Ifeacho, mother of the decedent, arrives shortly thereafter.

25. At approximately 4:40 p.m. the video shows two students running from the training room to the front of the school. These students return to the gym and then the video shows the same two students running out of the gym toward the foyer at approximately 4:43 p.m. In approximately 30 seconds, one of the students returns to the gym with what appears to be an AED in his hand.

26. The Lexington Police Department Incident Report shows that the initial emergency call was made at 4:45:42 p.m. Police and emergency personnel are dispatched, and the police record arriving at 4:56:03 p.m.

27. The Lexington Division of Fire and EMS Patient Care Record shows that the first call for EMS was received at 4:33:03 p.m. and they are “at patient” at approximately 4:43 p.m.

28. The EMS report notes there was a 5 minute delay from the time of collapse to the time 911 was called and estimated that 8 to 10 minutes had elapsed from the time of collapse until the time of their arrival. The Defendant, Cody Begley, asked students to obtain the AED from the front foyer several minutes after the collapse of Star Ifeacho, and the first AED charge was not administered until 4:42.20 p.m. per the AED Event Log.

29. Per the report of the Lexington Division of Fire and EMS, they were not contacted until 4:33 p.m. The report states that the call was not made until 5 minutes after Star Ifeacho collapsed, at approximately 4:28 p.m. This would demonstrate a 14-minute delay in administration of the AED.

30. Star Ifeacho was taken by EMS to the University of Kentucky Medical Center where he was pronounced dead at 5:47 p.m.

COUNT I

31. Plaintiff reasserts, realleges, adopts and incorporates each and every allegation set forth in numerical paragraphs 1 through 30 of Plaintiff's Complaint as if set forth more fully herein.

32. At all times relevant hereto, Defendant Begley was acting individually and in the course and scope of his employment as an Athletic Trainer at Paul Laurence Dunbar High School. Defendant Begley failed to administer his ministerial duties as set forth by the policies, procedures and protocols of Fayette County Public Schools, and failed to provide prompt and necessary medical care and aid to the decedent, Star Ifeacho, resulting in the wrongful death of Star Ifeacho. Defendant Begley negligently delayed in utilizing the AED available just outside the gymnasium, and failed in all ministerial duties owed as an Athletic Trainer.

33. At all times relevant hereto, Defendant Begley had a duty as an Athletic Trainer to provide appropriate care and treatment to the decedent, Star Ifeacho, and fell well below the appropriate standard of care for Athletic Trainers in same or similar circumstances, which said failure resulted in all damages sustained by the decedent and Plaintiff.

34. The Defendant, Cody Begley, deviated from the relevant standard of care for an athletic trainer in the same or similar circumstances by failing to promptly initiate AED protocols. He had been trained and certified in the use and importance of the AED, and failed to request the AED until the optimum time for use has passed. As a direct result of his deviations from the standard of care, Star Ifeacho died unnecessarily.

35. The print outs from the AED itself demonstrate that Star Ifecho had a shockable rhythm, but the delay of Defendant Begley was grossly negligent in failing to shock Ifecho's heart at a time that would have allowed for survival.

36. All said actions and inactions were generally, grossly and wantonly negligent and reckless, and resulted in the death of Star Ifecho, thus entitling Plaintiffs to compensatory, exemplary and punitive damages. As a result, Defendant Begley is liable to the Estate of Star Ifecho for all available damages including pain and suffering, wrongful death, and individual claims of Peace Ifecho for loss of consortium.

COUNT II

37. Plaintiff reasserts, realleges, adopts and incorporates each and every allegation set forth in numerical paragraphs 1 through 36 of Plaintiff's Complaint as if set forth more fully herein.

38. Defendant Gabriel Somelon, acting ministerially in her individual and official capacities as an athletic trainer at Paul Laurence Dunbar High School, was negligent in removing the AED from the Training Room and taking it outside, away from the area where it would most likely be needed for the athletes training in the gymnasium.

39. Said negligence resulted in a delay in providing AED treatment to Star Ifecho, which ultimately resulted in his wrongful death. As a result, Defendant Somelon is liable to the Estate of Star Ifecho for all available damages including pain and suffering, wrongful death, and individual claims of Peace Ifecho for loss of consortium.

40. At all times relevant hereto, Defendant Somelon had a duty as an Athletic Trainer to provide appropriate care and treatment to the decedent, Star Ifecho, and fell well below

the appropriate standard of care for Athletic Trainers in same or similar circumstances, which said failure resulted in all damages sustained by the decedent and Plaintiff.

COUNT III

41. Plaintiff reasserts, realleges, adopts and incorporates each and every allegation set forth in numerical paragraphs 1 through 40 of Plaintiff's Complaint as if set forth more fully herein.

42. Defendant Scott Chalk, in his Individual Capacity and in his Official Capacity as Men's Basketball Head Coach and Athletic Director at Paul Laurence Dunbar High School, acting in a ministerial fashion, failed to advise, monitor, train and supervise the co-Defendants in the proper use of the AED and AED protocols and in the appropriate safety standards owed to athletes including but not limited to Star Ifeacho. Chalk and other employees, agents, and assigns of Fayette County Public Schools failed to take appropriate ministerial actions in training, supervising and monitoring the athletic directors and coaching staff, and such failure was a direct and proximate cause of the wrongful death of Star Ifeacho.

43. Said actions and inactions were generally, grossly and wantonly negligent and reckless, and resulted in the death of Star Ifeacho, thus entitling Plaintiff to compensatory, exemplary and punitive damages. As a result, Defendant Chalk is liable to the Estate of Star Ifeacho for all available damages including pain and suffering, wrongful death, and individual claims of Peace Ifeacho for loss of consortium.

COUNT IV

44. Plaintiff reasserts, realleges, adopts and incorporates each and every allegation set forth in numerical paragraphs 1 through 43 of Plaintiffs' Complaint as if set forth more fully herein.

45. Defendant Chris Armstrong, in his Individual Capacity and in his Official Capacity as Men's Basketball Assistant Coach at Paul Laurence Dunbar High School, acting in a ministerial fashion, failed to advise, monitor, train and supervise the co-Defendants in the proper use of the AED and AED protocols and in the appropriate safety standards owed to athletes including but not limited to Star Ifeacho. He further failed to promptly implement the standing protocols for use of the AED upon the decedent Star Ifeacho. Armstrong and other employees, agents, and assigns of Fayette County Public Schools failed to take appropriate ministerial actions in training, supervising and monitoring the athletic directors and coaching staff, and such failure was a direct and proximate cause of the wrongful death of Star Ifeacho.

46. Said actions and inactions were generally, grossly and wantonly negligent and reckless, and resulted in the death of Star Ifeacho, thus entitling Plaintiff to compensatory, exemplary and punitive damages. As a result, Defendant Armstrong is liable to the Estate of Star Ifeacho for all available damages including pain and suffering, wrongful death, and individual claims of Peace Ifeacho for loss of consortium.

COUNT V

47. Plaintiff reasserts, realleges, adopts and incorporates each and every allegation set forth in numerical paragraphs 1 through 46 of Plaintiffs' Complaint as if set forth more fully herein.

48. Defendant Donna Martin, in her Individual Capacity and in her Official Capacity as Athletic Director at Paul Laurence Dunbar High School, acting in a ministerial fashion, failed to advise, monitor, train and supervise the co-Defendants in the proper use of the AED and AED protocols and in the appropriate safety standards owed to athletes including but not limited to Star Ifeacho. Martin and other employees, agents, and assigns of Fayette County Public Schools failed to take appropriate ministerial actions in training, supervising and

monitoring the athletic directors and coaching staff, and such failure was a direct and proximate cause of the wrongful death of Star Ifeacho.

49. Said actions and inactions were generally, grossly and wantonly negligent and reckless, and resulted in the death of Star Ifeacho, thus entitling Plaintiff to compensatory, exemplary and punitive damages. As a result, Defendant Martin is liable to the Estate of Star Ifeacho for all available damages including pain and suffering, wrongful death, and individual claims of Peace Ifeacho for loss of consortium.

COUNT VI

50. Plaintiff reasserts, realleges, adopts and incorporates each and every allegation set forth in numerical paragraphs 1 through 49 of Plaintiff's Complaint as if set forth more fully herein.

51. Defendant Betsy Rains, in her Individual Capacity and in her Official Capacity as Principal at Paul Laurence Dunbar High School, acting in a ministerial fashion, failed to advise, monitor, train and supervise the co-Defendants in the proper use of the AED and AED protocols and in the appropriate safety standards owed to athletes including but not limited to Star Ifeacho. Rains and other employees, agents, and assigns of Fayette County Public Schools failed to take appropriate ministerial actions in training, supervising and monitoring the athletic directors and coaching staff, and such failure was a direct and proximate cause of the wrongful death of Star Ifeacho.

52. Said actions and inactions were generally, grossly and wantonly negligent and reckless, and resulted in the death of Star Ifeacho, thus entitling Plaintiff to compensatory, exemplary and punitive damages. As a result, Defendant Rains is liable to the Estate of Star

Ifeacho for all available damages including pain and suffering, wrongful death, and individual claims of Peace Ifeacho for loss of consortium.

COUNT VII

53. Plaintiff reasserts, realleges, adopts and incorporates each and every allegation set forth in numerical paragraphs 1 through 52 of Plaintiff's Complaint as if set forth more fully herein.

54. Defendant Emmanuel Caulk, in his Individual Capacity and in his Official Capacity as the Superintendent at Fayette County Public Schools, acting in a ministerial fashion, failed to advise, monitor, train and supervise the co-Defendants in the proper use of the AED and AED protocols and in the appropriate safety standards owed to athletes including but not limited to Star Ifeacho. Caulk further failed to assure that all protocols were implemented as required by statute and guidelines of the Fayette County Public Schools. Caulk and other employees, agents, and assigns of Fayette County Public Schools failed to take appropriate ministerial actions in training, supervising and monitoring the athletic directors and coaching staff, and such failure was a direct and proximate cause of the wrongful death of Star Ifeacho.

55. Said actions and inactions were generally, grossly and wantonly negligent and reckless, and resulted in the death of Star Ifeacho, thus entitling Plaintiff to compensatory, exemplary and punitive damages. As a result, Defendant Caulk is liable to the Estate of Star Ifeacho for all available damages including pain and suffering, wrongful death, and individual claims of Peace Ifeacho for loss of consortium.

COUNT VIII

56. Plaintiff reasserts, realleges, adopts and incorporates each and every allegation set forth in numerical paragraphs 1 through 55 of Plaintiff's Complaint as if set forth more fully herein.

57. Defendants jointly and individually were aware of the failure to appropriately and timely train, supervise and monitor the training and athletic staff on the use of AEDs and the appropriate protocols in medical emergency situations, and failed to give notice to or warn students and parents of Paul Laurence Dunbar High School of said failures, or take corrective action to protect the students of Paul Laurence Dunbar High School, including but not limited to Star Ifeacho.

58. Star Ifeacho, as a student of a Fayette County Public Schools, and as a student athlete, was entitled to be coached, treated and monitored by staff that was properly trained on the proper use of AEDs and the repercussions of failure to utilize these devices in a timely fashion, as set forth in the School System's own policies and procedures.

59. Defendants, individually and in their official capacities, jointly and severally, allowed the ministerial protocols, policies and procedures to be violated in total disregard for the safety of the student body, including but not limited to Star Ifeacho.

60. Such gross and wanton failure to follow the protocols, policies and procedures were egregious, dangerous, and specifically resulted in the wrongful death of Star Ifeacho.

COUNT IX: NEGLIGENCE PER SE

61. Plaintiff reasserts, realleges, adopts and incorporates each and every allegation set forth in numerical paragraphs 1 through 60 of Plaintiff's Complaint as if set forth more fully herein.

62. At all times relevant herein, the named Defendants and their employees, agents and assigns had a duty to implement and comply with protocols pursuant to KRS 311.667.

63. Said duty to implement and comply with protocols related to the use of AEDs was a non-delegable duty on the part of Defendants.

64. In failing to properly train, review and implement the protocols, the Defendants, individually and/or jointly, are negligent per se, and as such Plaintiffs are entitled to an award of liability for such negligence per se.

65. That the decedent Star Ifeacho was a member of the class of persons designed to be protected by the statute and his injuries and death are the exact type of harm the statute was designed to prevent.

66. As a result of the negligence per se, decedent Star Ifeacho has suffered wrongful death and Plaintiff Peace Ifeacho has suffered the loss of consortium of her son Star Ifeacho.

COUNT X

67. Plaintiff reasserts, realleges, adopts and incorporates each and every allegation set forth in numerical paragraphs 1 through 66 of Plaintiff's Complaint.

68. At all times relevant hereto, the decedent Star Ifeacho was the minor child of the Plaintiff, Peace Ifeacho.

69. As a direct result of the Defendants' individual and/or joint negligence the Plaintiff, Peace Ifeacho, has suffered and will continue to suffer loss of consortium, including but not limited to the loss of services of her son Star Ifeacho, loss of companionship, loss of enjoyment of her life with Star Ifeacho, and all other damages allowed under a claim for loss of consortium.

COUNT XI

70. Plaintiff realleges, reasserts, adopts and incorporates each and every allegation contained in numerical paragraphs 1-69 as if set forth more fully herein.

71. That at all times relevant hereto, the Defendants, individually and jointly, acted in a wanton and reckless fashion and with gross negligence, which such actions and/or inactions resulted in serious personal injury and wrongful death to the Plaintiff and decedent, and as such, Plaintiff is entitled to an award of punitive damages.

COUNT XII – DECLARATORY JUDGMENT

72. Plaintiff realleges, reasserts, adopts and incorporates each and every allegation contained in numerical paragraphs 1-71 as if set forth more fully herein.

73. Due to the vagueness, breath and lack of clarity of its statutory language, more fully set forth herein, the Plaintiffs, contemporaneously with the filing of this civil action, have filed a “Proposed Complaint” with the Cabinet for Health and Family Services Medical Review Panel Branch pursuant to KRS Section 216 C.005 as against Defendants Begley and Sombelon, out of an abundance of caution.

74. This statute has previously been found unconstitutional by the Franklin Circuit Court, but an injunctive stay has been placed on that finding pending resolution by the Appellate Courts and further allowing for filing of claims before the Medical Review Panel Branch. However, given that the matter is currently being appealed and the statute previously found unconstitutional, Plaintiff request that this Court stay KRS 216 C.005 *et seq.* proceedings before the Cabinet for Health and Family Services as against Begley and Somelon and permit the entirety of this case to proceed in Fayette Circuit Court pursuant to the Kentucky Constitution and the Kentucky Rules of Civil Procedure.

75. The Medical Review Panels act (“MPR Act”) created in KRS 216C.005 *et seq.* is unconstitutional in a myriad of ways, including: (1) it is arbitrary and violates the equal protection of the laws guaranteed in Sections 1, 2 and 3 of the Kentucky Constitution; (2) it violates the open courts provisions found in Section 14 of the Kentucky Constitution; (3) it violates the right to a jury trial in Section 7 of the Kentucky Constitution; (4) it violates the prohibition on personal injury and wrongful death damages in Sections 54 and 241 of the Kentucky Constitution; (5) it violates the separation of executive powers and judicial powers required by Sections 27, 28, 109 and 116 of the Kentucky Constitution; and (6) it violates the prohibition against special legislation in Sections 59 and 60 of the Kentucky Constitution.

76. The MRP Act mandates that any “malpractice and malpractice related claims against a health care provider, other than claims validly agreed for submission to a binding arbitration procedure shall be reviewed by a medical review panel”

77. The MRP Act also prohibits victims of injury from commencing an action in court unless all parties agree otherwise, the panel renders an opinion, or the panel has not rendered its opinion within nine (9) months after the filing of the proposed complaint and payment of the mandatory filing fee with the Cabinet for Health and Family Services.

78. “Health care provider” under the MPR Act is also extremely broad and includes not just medical providers, but “any health facility as defined by KRS 216B.015, or a provider, including natural person, of health care or health services, including but not limited to those licensed, certified, registered under, or subject to” a number of KRS chapters.

79. The MRP Act applies not just to claims against those who practice medicine as the title of the Act suggests, but haphazardly includes claims against those who do not practice medicine. There is no restriction on a panel consisting solely of members of one

profession rendering a panel opinion as to whether a member of an entirely different profession deviated from the standard of care and causation. Thus, three empaneled social workers are authorized to render a medical opinion as to whether a surgeon breached the standard of care and caused injury.

80. The MRP Act also does not similarly restrict any other litigants' right to access the courts for suits against private parties other than "health care providers."

81. This is an action for declaratory relief to remedy the violations of the rights of the Plaintiff herein and others similarly situated under the Constitution of the Commonwealth of Kentucky.

82. Plaintiff seeks a declaration from this Court that the Medical Review Panel Act ("MRP Act") codified at KRS 216C.005 *et. seq.* is both in violation of the Kentucky Constitution and/or does not apply to the facts and allegations set forth herein.

WHEREFORE, the Plaintiff, Peace Ifeacho, as administratrix of the Estate of Star Ifeacho, and individually, demands as follows:

- A. Judgment for the Plaintiff for compensatory, exemplary and punitive damages against the Defendants, individually and jointly, in such amounts as a trier of fact shall deem reasonable for the wrongful death of Star Ifeacho;
- B. Judgment for the Plaintiff for compensatory, exemplary and punitive damages against the Defendants, individually and jointly, in such amounts as a trier of fact shall deem reasonable for loss of consortium;
- C. For a finding of Negligence Per Se;
- D. A Declaratory Judgment that the MRP Act is in violation of the Kentucky Constitution;

- E. A Declaratory Judgment that the MRP Act does not apply to the facts and allegations set forth above;
- F. For the Plaintiffs' costs herein expended;
- G. For any and all other relief to which the Plaintiffs may appear reasonably entitled;
- H. And for TRIAL BY JURY.

Respectfully submitted,

/s/Sheila P. Hiestand

Sheila P. Hiestand

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