

IN THE CIRCUIT COURT FOR THE FIFTEENTH JUDICIAL COURT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO.:

LAURA FLOYD, as Personal  
Representative of the Estate of  
PAUL MICHAEL FLOYD, deceased,

Plaintiff,

v.

DELRAY MEDICAL CENTER, INC.,  
INPHYNET CONTRACTING SERVICES, LLC,  
PULMONOLOGY AND SLEEP CENTER, LLC,  
MATTHEW W. WALLACE, M.D.,  
PETER E. KAPLAN, M.D., and  
FREDERICK TACKEY, M.D.,

Defendants.

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**COMPLAINT FOR DAMAGES AND DEMAND FOR TRIAL BY JURY**

Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, deceased, by and through her undersigned attorneys, files this Complaint for Damages and Demand for Trial by Jury against the Defendants, DELRAY MEDICAL CENTER, INC., INPHYNET CONTRACTING SERVICES, LLC, PULMONOLOGY AND SLEEP CENTER, LLC, MATTHEW W. WALLACE, M.D., PETER E. KAPLAN, M.D., and FREDERICK TACKEY, M.D., and alleges:

**JURISDICTION AND VENUE**

1. This is an action for damages in excess of Fifty Thousand Dollars (\$50,000.00), exclusive of interest and costs.
2. At all material times, the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, was and is a resident of Palm

Beach County, Florida.

3. At all material times, Defendant DELRAY MEDICAL CENTER, INC. (hereinafter "DMC, INC."), was and is a Florida Profit Corporation that owned and operated an acute care hospital located in Palm Beach County, Florida.

4. At all material times, Defendant INPHYNET CONTRACTING SERVICES, LLC (hereinafter "INPHYNET"), was and is a Florida Limited Liability Company that employed physicians who were practicing medicine in Palm Beach County, Florida.

5. At all material times, Defendant PULMONOLOGY AND SLEEP CENTER, LLC, (hereinafter "PULMONOLOGY"), was and is a Florida Limited Liability Company with a principal address in Palm Beach County, Florida.

6. At all material times, Defendant, MATTHEW W. WALLACE, M.D. (hereinafter "WALLACE"), was and is a resident of the State of Florida and a licensed medical doctor practicing emergency medicine in Palm Beach County, Florida.

7. At all material times, Defendant, PETER E. KAPLAN, M.D. (hereinafter "KAPLAN"), was and is a resident of the State of Florida and a licensed medical doctor practicing emergency medicine in Palm Beach County, Florida.

8. At all material times, Defendant, FREDERICK TACKEY, M.D. (hereinafter "TACKEY"), was and is a resident of the State of Florida and a licensed medical doctor practicing internal medicine in Palm Beach County, Florida.

9. Venue is proper in this Court as the medical negligence that gives rise to this lawsuit occurred in Palm Beach County, Florida.

**COMPLIANCE WITH CONDITIONS PRECEDENT AND CHAPTER 766, FLA. STAT.**

10. All conditions precedent for bringing this medical malpractice action against

each of the named Defendants pursuant to Chapter § 766, Fla. Stat., and all other governing law have been satisfied.

11. This action is properly brought within two years, plus any applicable tolling period, from when the medical negligence occurred, or within two years of the date the negligence could have been discovered with the exercise of due diligence.

12. The undersigned counsel for Plaintiff, LAURA FLOYD, as Personal Representative for the Estate of PAUL MICHAEL FLOYD, in accordance with Fla. Stat. § 766.104, hereby certifies that he has made a reasonable investigation as permitted by the circumstances and that he has determined that there are grounds for a good faith belief that there has been negligence in the medical treatment of PAUL MICHAEL FLOYD, and that a valid action exists against each of the named Defendants.

#### **FACTUAL ALLEGATIONS**

13. At all material times, LAURA FLOYD was the lawful and dutiful wife of PAUL MICHAEL FLOYD, and they resided together as husband and wife in Palm Beach County, Florida.

14. PAUL MICHAEL FLOYD, deceased, had two natural children under the age of 25 years when he suffered a wrongful death: a son named CAMERON FLOYD and a daughter named KYLIE FLOYD.

15. Prior to bringing this lawsuit, LAURA FLOYD, has been duly appointed as the Personal Representative of the Estate of PAUL MICHAEL FLOYD by the Circuit Court of Palm Beach County, Florida.

16. At all material times, Defendant DMC, INC., owned and operated a 536-bed acute care hospital with a 24-hour emergency department known as "Delray Medical

Center”, located at 5352 Linton Blvd., Delray Beach, Palm Beach County, Florida.

17. At all material times, Defendant, INPHYNET, LLC, owned and operated a medical staffing company that employed emergency medicine physicians.

18. At all material times, there was a contract or agreement in full force and effect between Defendant, DMC, INC., and Defendant, INPHYNET, LLC, such that Defendant, INPHYNET, would supply emergency medicine physicians to provide medical services to emergency department patients who presented to Delray Medical Center.

19. At all material times, Defendant, DMC, INC., held the emergency medicine physicians who work in the emergency department at Delray Medical Center, including Defendants WALLACE, KAPLAN, and TACKEY, out to the public as its employees/agents, making such representations that include, but are not limited to: “When a serious health emergency or injury occurs, seconds can matter. From the moment you enter our doors, our dedicated staff of emergency room doctors and medical professionals make it their mission to provide quality, compassionate care.”, “Delray Medical Center is proud of its legacy of delivering trusted, high-quality healthcare services to the Delray Beach Community”, “Excellence in emergency care – When you have an emergency, you want the highest quality care – and fast. At Delray Medical Center, you have access to a highly trained team that includes board-certified emergency physicians, dedicated nurses certified in Advanced Cardiac Life Support and Pediatric Advanced Life Support, experienced technicians, specialty surgeons...”, and “Whether it’s a broken bone, high fever or a more severe medical emergency like a heart attack, we are ready to provide quality care when seconds matter”.

20. During the time that PAUL MICHAEL FLOYD spent at Delray Medical Center in October of 2023, various nurses and employees of Defendant, DMC, INC., made statements to PAUL MICHAEL FLOYD and his wife, LAURA FLOYD, indicating that Defendants WALLACE, KAPLAN, and TACKEY, were employees or agents of Defendant, DMC, INC.

21. At all times while providing consultations to PAUL MICHAEL FLOYD, Defendants WALLACE, KAPLAN, and TACKEY, wore clothing and ID badges that represented them as being affiliated with Delray Medical Center.

22. At all material times, Defendant WALLACE was and is a licensed physician in the State of Florida, practicing emergency medicine under license number ME 143324.

23. At all material times, Defendant KAPLAN was and is a licensed physician in the State of Florida, practicing emergency medicine under license number ME 65581.

24. At all material times, Defendants WALLACE and KAPLAN were employees, agents, or servants of Defendant INPHYNET, and they were acting in the course and scope of said employment or agency.

25. At all material times, Defendant TACKEY was and is a licensed physician in the State of Florida, practicing internal medicine under license number ME 68055.

26. At all material times, Defendant TACKEY was an employee, agent, or servant of Defendant, PULMONOLOGY, and he was acting in the course and scope of said employment or agency.

27. At all material times, Defendants WALLACE, KAPLAN and TACKEY were credentialed staff members at Delray Medical Center, and Defendant, DMC, INC., exhibited control over these physicians in a plethora of ways, including but not limited to:

forcing them to apply and go through a vetting process, mandating they adhered to Defendant DMC, INC.'s copious and restrictive covenants, mandating them to be on-call on certain dates and times to provide medical services to Delray Medical Center patients, mandating they follow DMC, INC.'s copious guidelines, medical policies and procedures, bylaws, and rules, which included, but are not limited to, rules, policies and procedures governing the practice of medicine.

28. At all times material hereto, Defendant DMC, INC., had the power and authority to terminate, discipline, suspend, and exert control over Defendants WALLACE, KAPLAN, and TACKEY.

29. At all times material hereto, Defendant KAPLAN served on Defendant, DMC, INC.'s, Medical Executive Committee and performed administrative duties and obligations on behalf of Defendant, DMC, INC.

30. At all material times, Defendant DMC, INC., employed nurses who were responsible for providing nursing treatment to PAUL MICHAEL FLOYD.

31. At all material times, all of the nurses referenced throughout this Complaint were employees, agents or servants of Defendant DMC, INC., and they were working in the course and scope of said employment.

32. On the evening of October 19, 2023, the decedent, PAUL MICHAEL FLOYD, was a 53-year-old man who presented to the emergency department at Delray Medical Center with complaints of headache, nausea, and abdominal pain.

33. Shortly after his arrival at Delray Medical Center, Defendant WALLACE was assigned by Defendant, DMC, INC., to be PAUL MICHAEL FLOYD's treating emergency department physician. Prior to his arrival, PAUL MICHAEL FLOYD had never met or

known of the Defendant, WALLACE, nor did he ever request said Defendant to be his physician.

34. During the emergency department presentation of October 19, 2023, PAUL MICHAEL FLOYD was in hypertensive crisis with a blood pressure reading of 211/120, an elevated respiratory rate, widened pulse pressure, and a concerning EKG, along with a constellation of neurological symptoms and risk factors including, but not limited to, severe hypertension, history of atrial fibrillation with use of the anticoagulant Eliquis, and alcohol use, all of which are known to put him at much higher risk for life-threatening neurological events such as stroke/hypertensive intracranial hemorrhage.

35. Despite the above highly concerning presentation, Defendant WALLACE failed to provide proper medical treatment relative to PAUL MICHAEL FLOYD's neurological symptoms and risks, never considered neurological diagnoses in his differential, and did not send for any brain imaging. Instead, Defendant WALLACE sent PAUL MICHAEL FLOYD for diagnostic testing of his abdomen, that was read as negative. The Defendant, WALLACE, arrived at a diagnosis of epigastric pain, failing to diagnose the true source and severity of his life-threatening, urgent medical condition. Defendant WALLACE discharged PAUL MICHAEL FLOYD home from the emergency department in the early morning hours of October 20, 2023, providing no treatment or instruction relative to his neurological symptoms and risk factors, which WALLACE clearly missed.

36. During the emergency department visit of October 19, 2023, the nurse employees of Defendant, DMC, INC., who treated PAUL MICHAEL FLOYD failed to properly flag and document his severe hypertension and blood pressure results and other troubling findings, and failed to properly advocate for the patient to ensure that his medical

conditions were properly addressed by the medical team.

37. On October 20, 2023, approximately seven hours after being discharged from the hospital's emergency department by Defendant WALLACE with a diagnosis of "epigastric pain", the decedent, PAUL MICHAEL FLOYD, returned to Delray Medical Center with complaints of severe headache, nausea, and abdominal pain. It was charted that he vomited in the emergency department. Photographic evidence taken in the emergency department waiting room that morning shows PAUL MICHAEL FLOYD laying in a prone position and holding his head in agonizing pain.

38. Shortly after arriving at Delray Medical Center on October 20, 2023, Defendant KAPLAN was assigned by Defendant DMC, INC., to be his attending emergency department physician. Prior to his arrival, PAUL MICHAEL FLOYD had never met or known of Defendant KAPLAN, nor did he ever request that said Defendant to be his physician.

39. During the emergency department treatment provided by Defendant KAPLAN he noted a history of atrial fibrillation and anticoagulation but missed the constellation of neurological symptoms and risk factors exhibited by PAUL MICHAEL FLOYD. Defendant KAPLAN arrived at the diagnosis of "Abdominal pain in male" and "Nausea and vomiting," and provided no care, diagnostic testing, or other orders or treatment relative to the true cause of his symptomology, to wit, an intracranial hemorrhage, which he clearly missed. Defendant, KAPLAN, attempted to discharge PAUL MICHAEL FLOYD home from the emergency department. However, PAUL MICHAEL FLOYD and his wife, LAURA FLOYD, insisted that he be admitted to the hospital, which he was.

40. During the emergency department visit of October 20, 2023, the nurse employees of Defendant DMC, INC., who treated PAUL MICHAEL FLOYD failed to alert the attending physician of the neurological symptoms documented, or any other authoritative figure, of PAUL MICHAEL FLOYD's highly concerning neurological complaints and risk factors and failed to advocate for him to receive proper medical attention relative thereto.

41. After PAUL MICHAEL FLOYD was admitted to Delray Medical Center, Defendant DMC, INC., assigned Defendant TACKEY to be his attending internal medicine doctor. Prior to his arrival, PAUL MICHAEL FLOYD had never met or known of Defendant TACKEY, nor did he ever request said Defendant to be his physician.

42. From the time of his admission on October 20, 2023, through the evening of October 21, 2023, PAUL MICHAEL FLOYD was hospitalized inpatient at Delray Medical Center where he continued to display troubling neurological symptoms paired with his profound risk factors for stroke/intracranial hemorrhage and other neurological disease. Despite these troubling symptoms and his elevated risk factors, Defendant TACKEY, who remained the treating internist for PAUL MICHAEL FLOYD, grasped at gastrointestinal diagnoses and missed the intracranial hemorrhage that was proliferating in his patient.

43. From October 20, 2023, through the evening of October 21, 2023, while PAUL MICHAEL FLOYD was hospitalized inpatient at Delray Medical Center and continued to display troubling neurological symptoms paired with his profound risk factors for intracranial hemorrhage and other neurological disease, the nurse employees of Defendant DMC, INC., failed to recognize the highly concerning neurological risk factors

that PAUL MICHAEL FLOYD was exhibiting, did not report his symptoms properly to the attending physician, and failed to advocate for the patient to get a brain CT and proper medical and neurological workup.

44. After the medical personnel at Delray Medical Center wrongfully sought an ever-elusive gastrointestinal diagnosis for two days that was never found, while completely ignoring PAUL MICHAEL FLOYD's neurological symptomology and risk factors, he was found unresponsive by nurses at the hospital in the late evening hours of October 21, 2023. At that point, PAUL MICHAEL FLOYD was **finally** sent for a CT scan of his brain, conducted at approximately 12:30 AM on October 22, 2023, that revealed a massive intracranial hemorrhage that was missed and allowed to occur and proliferate from the time he presented to the emergency department on October 19, 2023, through the time he went for the subject brain CT scan.

45. The intracranial hemorrhage that was missed and untreated was allowed to proliferate from the time that PAUL MICHAEL FLOYD first presented to the emergency department on October 19, 2023, through the time of his first brain CT scan of October 22, 2023, proved to fatal, and PAUL MICHAEL FLOYD suffered a wrongful death on October 23, 2023.

**DAMAGES COMMON TO EACH COUNT**

46. As a direct and proximate result of the negligence of the Defendants named herein, resulting in the wrongful death of PAUL MICHAEL FLOYD, the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, brings forth claims for the following:

a. All recoverable damages available to the ESTATE OF PAUL MICHAEL FLOYD, including but not limited to:

- Loss of earnings of the deceased from the date of injury to the date of death, with interest, and future lost earnings/loss of earning capacity;
- Loss of the prospective net accumulations of the estate, which might reasonably have been expected but for the wrongful death;
- Medical or funeral expenses due to the decedent's injury or death that have become a charge against his estate or that were paid by or on behalf of decedent;

b. All recoverable damages available to LAURA FLOYD, as surviving spouse of PAUL MICHAEL FLOYD, under Florida's Wrongful Death Act, including but not limited to:

- lost support and services from the date of the decedent's injury to his death, with interest, and future loss of support and services from the date of death;
- loss of decedent's companionship and protection, in the past and in the future;
- mental pain and suffering, in the past and in the future;
- medical, funeral and burial costs;

c. all recoverable damages available to KYLIE FLOYD and CAMERON FLOYD, who were under the age of 25 when these causes of action

accrued, and who are the surviving daughter and son of PAUL MICHAEL FLOYD, under Florida's Wrongful Death Act, including but not limited to:

- lost support and services from the date of the decedent's injury to his death, with interest, and future loss of support and services from the date of death;
- loss of parental companionship, instruction and guidance, in the past and in the future;
- mental pain and suffering, in the past and in the future.

**COUNT I – WRONGFUL DEATH MEDICAL MALPRACTICE AGAINST DEFENDANT MATTHEW W. WALLACE, M.D.**

47. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 46 of this Complaint as if specially alleged herein.

48. At all material times, Defendant WALLACE had a duty to provide his patient, PAUL MICHAEL FLOYD, with reasonably careful medical treatment within the standard of care for emergency medicine physicians in this community.

49. Defendant WALLACE deviated from the acceptable standards of care for emergency medicine physicians in this community, and failed to act as a reasonably careful emergency medicine physician with regards to his treatment of PAUL MICHAEL FLOYD, in the following ways, without limitation:

- a. failing to perform a proper work up of his patient given his patient's severe hypertension, widened pulse pressures, incomplete right bundle branch block, the EKG results, his cardiac and neurological risk factors, medical history including but not limited to

atrial fibrillation with use of Eliquis, and all other issues related to his presentation;

b. failing to properly monitor and chart his blood pressure;

c. failing to order proper diagnostic testing, including but not limited to diagnostic testing of the brain;

d. failing to consult with medical specialists;

e. failing to admit him to the hospital for monitoring and consultation with a medical specialist;

f. failing to continue medication and other protocols to ensure control of his severe hypertension;

g. failing to include an acute neurological event in his differential diagnosis;

h. missing the distinct possibility of an acute neurological event;

i. missing and failing to diagnose, prevent, and/or treat the intracranial hemorrhage;

j. failing to conduct himself as the reasonably careful emergency medicine physician would under the same or similar circumstances.

50. As a direct and proximate result of the negligence of Defendant WALLACE, the decedent, PAUL MICHAEL FLOYD, suffered a wrongful death on October 23, 2023.

WHEREFORE the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against the Defendant,

MATTHEW W. WALLACE, M.D., for damages in an amount to be determined at trial in this matter, interest, costs and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT II – WRONGFUL DEATH MEDICAL MALPRACTICE AGAINST DEFENDANT, INPHYNET CONTRACTING SERVICES, LLC - VICARIOUS LIABILITY**  
**RESPONDEAT SUPERIOR**

51. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 50 of this Complaint as if specially alleged herein.

52. As previously alleged in paragraph 24 herein, Defendant WALLACE was at all material times the agent, servant or employee of Defendant INPHYNET, which is vicariously liable for the negligence of Defendant WALLACE, as set forth above.

WHEREFORE, the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against the Defendant, INPHYNET CONTRACTING SERVICES, LLC, for damages in an amount to be determined at trial in this matter, interest, costs and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT III – WRONGFUL DEATH MEDICAL MALPRACTICE AGAINST DEFENDANT, DELRAY MEDICAL CENTER, INC. – VICARIOUS LIABILITY FOR MATTHEW W. WALLACE, M.D. – APPARENT AGENCY**

53. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 50 of this

Complaint as if specially alleged herein.

54. As alleged above, Defendant DMC, INC., by and through its website, advertisements, actions, statements, statements of its employees and agents, and all other material factors, held Defendant WALLACE out as its agent and/or employee, and caused or allowed PAUL MICHAEL FLOYD to believe that WALLACE was an agent of and had authority to act for DMC, INC., and PAUL MICHAEL FLOYD justifiably relied upon that belief in accepting medical treatment from Defendant WALLACE.

55. At all times material hereto, Defendant WALLACE was an apparent agent of Defendant DMC, INC., and was acting within the scope of her apparent authority at the time and place of the incidents described herein.

56. Based upon the foregoing allegations, Defendant DMC, INC., is vicariously liable for the negligence of its apparent agent, Defendant WALLACE.

WHEREFORE the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against the Defendant, DELRAY MEDICAL CENTER, INC., for damages in an amount to be determined at trial in this matter, interest, costs and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT IV – WRONGFUL DEATH MEDICAL MALPRACTICE AGAINST  
DEFENDANT, DELRAY MEDICAL CENTER, INC. – VICARIOUS  
LIABILITY FOR MATTHEW W. WALLACE, M.D. – ACTUAL AGENCY**

57. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 50 of this Complaint as if specially alleged herein.

58. As alleged above, at all times material, the actions of Defendant WALLACE were controlled by, or were subject to the right of control, by Defendant DMC, INC., making him an actual agent of Defendant, DMC, INC., under applicable law.

59. Based upon the foregoing allegations, Defendant DMC, INC., is vicariously liable for the negligence of its actual agent, the Defendant, WALLACE.

WHEREFORE the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against the Defendant, DELRAY MEDICAL CENTER, INC., for damages in an amount to be determined at trial in this matter, interest, costs, and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT V – WRONGFUL DEATH MEDICAL MALPRACTICE AGAINST  
DEFENDANT, DELRAY MEDICAL CENTER, INC. – NON-DELEGABLE DUTY**

60. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 50 of this Complaint as if specially alleged herein.

61. At all times material hereto, Defendant, DMC, INC., was and is a Florida licensed acute-care hospital that provides emergency room services to patients.

62. At all times relevant, Defendant DMC, INC., had a statutorily and administrative non-delegable duty, pursuant to (but not limited to) Florida Statute § 395.1041, Fla. Stat. § 395.001, Fla. Stat. § 395.1041, Fla. Stat. Chap. 404, Chapter 404, F.S., Chapter 64E-5, F.A.C., Part IV, Chapter 468, F.S., and Chapter 64E-3, F.A.C., Fla. Stat. § 395.1055 et. seq., Fla. Admin. Code R. 59A-3.255, Fla. Admin. Code R. 59A-3.275, Fla. Admin. Code 59A-3.2085, Fla. Stat. § 381.026, et seq., *Wax v. Tenet Heath*

*Sys. Hosps., Inc.* 995 So. 2d 1 (Fla. 4<sup>th</sup> DCA 2007), and all other good law, and undertook the duty to, provide its emergency department patient, PAUL MICHAEL FLOYD, with non-negligent emergency medical care within the standard of care of this community.

63. As alleged above, PAUL MICHAEL FLOYD received negligent medical care below the standard of care of emergency medicine physicians in this community during his emergency department presentation to Delray Medical Center on October 19-20, 2023 (first presentation).

WHEREFORE the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against the Defendant, DELRAY MEDICAL CENTER, INC., for damages in an amount to be determined at trial in this matter, interest, costs and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT VI – WRONGFUL DEATH NURSING MALPRACTICE AGAINST DEFENDANT DELRAY MEDICAL CENTER, INC. – NURSING NEGLIGENCE**

64. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 46 of this Complaint as if specially alleged herein.

65. At all material times, Defendant DMC, INC., by and through its nurse employees who treated PAUL MICHAEL FLOYD in the emergency department on the presentation of October 19-20, 2023 (the first emergency department presentation), had a duty to provide its patient, PAUL MICHAEL FLOYD, with reasonably careful nursing treatment within the standard of care for emergency department nurses in this community.

66. Defendant DMC, INC., by and through its nurse employees, deviated from the acceptable standards of care for emergency department nurses in this community, and failed to act as a reasonably careful emergency department nurse with regards to their treatment of PAUL MICHAEL FLOYD, in the following ways, without limitation:

- a. failing to properly document and flag the severely hypertensive blood pressure readings that he presented with;
- b. failing to properly advocate for the patient and ensure that the severe hypertension and widened pulse pressure was properly addressed by the medical team;
- c. failing to take a proper medical history;
- d. failing to properly chart their interactions with this patient;
- e. failing to properly advocate for the patient to receive proper diagnostic testing, admission to hospital, and consultations with specialists;
- f. failing to conduct themselves as the reasonably careful emergency department nurse would under the same or similar circumstances.

67. As a direct and proximate result of the negligence of the nurse employees of Defendant DMC, INC., for whom the corporation is vicariously liable, the decedent, PAUL MICHAEL FLOYD, suffered a wrongful death on October 23, 2023.

WHEREFORE the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against Defendant DELRAY MEDICAL CENTER, INC., for damages in an amount to be determined at trial in this

matter, interest, costs and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT VII – WRONGFUL DEATH MEDICAL MALPRACTICE AGAINST DEFENDANT  
PETER KAPLAN, M.D.**

68. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 46 of this Complaint as if specially alleged herein.

69. At all material times, Defendant KAPLAN had a duty to provide his patient, PAUL MICHAEL FLOYD, with reasonably careful medical treatment within the standard of care for emergency medicine physicians in this community.

70. Defendant KAPLAN deviated from the acceptable standards of care for emergency medicine physicians in this community, and failed to act as a reasonably careful emergency medicine physician with regards to his treatment of PAUL MICHAEL FLOYD, in the following ways, without limitation:

- a. failing to obtain a neurological consult;
- b. failing to order imaging of the brain;
- c. failing to include an acute neurological event in his differential diagnosis and provide proper medical care;
- d. missing the distinct possibility of an acute neurological event;
- e. failing to properly formulate a correct diagnosis for Mr. Floyd's swift and troubling symptomology in his return to the emergency department;
- f. missing and failing to diagnose the intracranial hemorrhage;

- g. failing to perform a workup relative to Mr. Floyd's cardiac and neurological symptomatology;
- h. admitting Mr. Floyd with incomplete and elementary diagnoses of abdominal pain, nausea and vomiting;
- i. failing to conduct himself as the reasonably careful emergency medicine physician would under the same or similar circumstances.

71. As a direct and proximate result of the negligence of Defendant KAPLAN, the decedent, PAUL MICHAEL FLOYD, suffered a wrongful death on October 23, 2023.

WHEREFORE the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against the Defendant, PETER E. KAPLAN, M.D., for damages in an amount to be determined at trial in this matter, interest, costs and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT VIII – WRONGFUL DEATH MEDICAL MALPRACTICE AGAINST  
DEFENDANT, INPHYNET CONTRACTING SERVICES, LLC - VICARIOUS LIABILITY  
RESPONDEAT SUPERIOR**

72. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 46 and 69 through 71 of this Complaint as if specially alleged herein.

73. As previously alleged in paragraph 24 herein, Defendant KAPLAN was at all material times the agent, servant or employee of Defendant, INPHYNET, which is vicariously liable for the negligence of Defendant, KAPLAN, as set forth above.

WHEREFORE, the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against Defendant INPHYNET CONTRACTING SERVICES, LLC, for damages in an amount to be determined at trial in this matter, interest, costs and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT IX – WRONGFUL DEATH MEDICAL MALPRACTICE AGAINST  
DEFENDANT, DELRAY MEDICAL CENTER, INC. – VICARIOUS LIABILITY FOR  
PETER KAPLAN, M.D. – APPARENT AGENCY**

74. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 46 and 69 through 71 of this Complaint as if specially alleged herein.

75. As alleged above, Defendant DMC, INC., by and through its website, advertisements, actions, statements, statements of its employees and agents, and all other material factors, held the Defendant, KAPLAN, out as its agent and/or employee, and caused or allowed PAUL MICHAEL FLOYD to believe that KAPLAN, was an agent of and had authority to act for DMC, INC., and PAUL MICHAEL FLOYD justifiably relied upon that belief in accepting medical treatment from Defendant KAPLAN.

76. At all times material hereto, the Defendant, KAPLAN, was an apparent agent of Defendant, DMC, INC., and was acting within the scope of his apparent authority at the time and place of the incidents described herein.

77. Based upon the foregoing allegations, Defendant DMC, INC., is vicariously liable for the negligence of its apparent agent, Defendant KAPLAN.

WHEREFORE the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against Defendant DELRAY MEDICAL CENTER, INC., for damages in an amount to be determined at trial in this matter, interest, costs and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT X – WRONGFUL DEATH MEDICAL MALPRACTICE AGAINST  
DEFENDANT, DELRAY MEDICAL CENTER, INC. – VICARIOUS  
LIABILITY FOR PETER KAPLAN, M.D. – ACTUAL AGENCY**

78. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 46 and 69 through 71 of this Complaint as if specially alleged herein.

79. As alleged above, at all times material, the actions of Defendant KAPLAN were controlled by, or were subject to the right of control, by Defendant DMC, INC., making him an actual agent of Defendant DMC, INC.

80. Based upon the foregoing allegations, Defendant DMC, INC., is vicariously liable for the negligence of its actual agent, Defendant KAPLAN.

WHEREFORE the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against the Defendant, DELRAY MEDICAL CENTER, INC., for damages in an amount to be determined at trial in this matter, interest, costs, and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT XI - MEDICAL NEGLIGENCE AGAINST DEFENDANT,  
DELRAY MEDICAL CENTER, INC. – NON-DELEGABLE DUTY**

81. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 46 and 69 through 71 of this Complaint as if specially alleged herein.

82. At all times material hereto, Defendant DMC, INC., was and is a Florida licensed acute-care hospital that provides emergency room services to patients.

83. At all times relevant, Defendant DMC, INC., had a statutorily and administrative non-delegable duty, pursuant to (but not limited to) Florida Statute § 395.1041, Fla. Stat. § 395.001, Fla. Stat. § 395.1041, Fla. Stat. Chap. 404, Chapter 404, F.S., Chapter 64E-5, F.A.C., Part IV, Chapter 468, F.S., and Chapter 64E-3, F.A.C., Fla. Stat. § 395.1055 et. seq., Fla. Admin. Code R. 59A-3.255, Fla. Admin. Code R. 59A-3.275, Fla. Admin. Code 59A-3.2085, Fla. Stat. § 381.026 *et seq.*, *Wax v. Tenet Heath Sys. Hosps., Inc.* 995 So. 2d 1 (Fla. 4<sup>th</sup> DCA 2007), and all other good law, and undertook the duty to, provide its emergency department patient, PAUL MICHAEL FLOYD, with non-negligent emergency medical care within the standard of care of this community.

84. As alleged above, PAUL MICHAEL FLOYD received negligent medical care below the standard of care of emergency medicine physicians in this community during his emergency department visit to Delray Medical Center on October 20, 2023.

WHEREFORE the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against the Defendant, DELRAY MEDICAL CENTER, INC., for damages in an amount to be determined at trial in this matter, interest, costs and any other or further relief that this Court deems just and proper.

The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT XII – WRONGFUL DEATH NURSING MALPRACTICE AGAINST DEFENDANT DELRAY MEDICAL CENTER, INC. – NURSING NEGLIGENCE**

85. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 46 of this Complaint as if specially alleged herein.

86. At all material times, Defendant, DMC, INC., by and through its nurse employees who treated PAUL MICHAEL FLOYD in the emergency department on the presentation of October 20, 2023 (the second emergency department presentation), had a duty to provide its patient, PAUL MICHAEL FLOYD, with reasonably careful nursing treatment within the standard of care for emergency department nurses in this community.

87. Defendant, DMC, INC., by and through its nurse employees, deviated from the acceptable standards of care for emergency department nurses in this community, and failed to act as a reasonably careful emergency department nurse with regards to their treatment of PAUL MICHAEL FLOYD, in the following ways, without limitation:

- a. failing to properly document and flag the chart, including but not limited to the hypertension, headache, and other concerning complaints and symptomology;
- b. failing to properly report and alert the attending physician, charge nurse, or other authoritative figure of Mr. Floyd's presentation, neurological complaints, and symptomology;

- c. failing to properly advocate for the patient and ensure that the neurological complaints and symptomology were properly addressed by the medical team;
- d. failing to take a proper medical history;
- e. failing to properly chart their interactions with this patient;
- f. failing to properly advocate for the patient to receive proper diagnostic testing and consult with specialist;
- g. failing to conduct themselves as the reasonably careful emergency department nurse would under the same or similar circumstances.

88. As a direct and proximate result of the negligence of the nurse employees of Defendant, DMC, INC., whom the corporation is vicariously liable for, the decedent, PAUL MICHAEL FLOYD, suffered a wrongful death on October 23, 2023.

WHEREFORE the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against the Defendant, DELRAY MEDICAL CENTER, INC., for damages in an amount to be determined at trial in this matter, interest, costs and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT XIII – WRONGFUL DEATH MEDICAL MALPRACTICE AGAINST  
DEFENDANT FREDERICK TACKEY, M.D.**

89. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 46 of this Complaint as if specially alleged herein.

90. At all material times, Defendant TACKEY had a duty to provide his patient, PAUL MICHAEL FLOYD, with reasonably careful medical treatment within the standard of care for internal medicine physicians in this community.

91. Defendant TACKEY deviated from the acceptable standards of care for internal medicine physicians in this community, and failed to act as a reasonably careful internal medicine physician with regards to his treatment of PAUL MICHAEL FLOYD, in the following ways, without limitation:

- a. failing to perform a thorough neurological assessment and proper workup;
- b. failing to order diagnostic testing of the brain;
- c. failing to properly chart his interactions with Mr. Floyd;
- d. failing to diagnose the intracranial brain hemorrhage;
- e. misdiagnosing an intracranial brain hemorrhage as gastrointestinal issues;
- f. failing to consult the proper specialist and failing to order a consult with the proper specialist for his patient;
- g. failing to include an acute neurological event in his differential diagnosis and provide proper medical care;
- h. failing to conduct himself as the reasonably careful internal medicine physician would under the same or similar circumstances.

92. As a direct and proximate result of the negligence committed by Defendant TACKEY, the decedent, PAUL MICHAEL FLOYD, suffered a wrongful death on October 23, 2023.

WHEREFORE the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against the Defendant, FREDERICK TACKEY, M.D., for damages in an amount to be determined at trial in this matter, interest, costs and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT XIV – WRONGFUL DEATH MEDICAL MALPRACTICE AGAINST  
DEFENDANT, PULMONOLOGY AND SLEEP CENTER, LLC – VICARIOUS  
LIABILITY RESPONDEAT SUPERIOR**

93. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 46 and 90 through 92 of this Complaint as if specially alleged herein.

94. As previously alleged in paragraph 26 herein, Defendant TACKEY was at all material times the agent, servant or employee of Defendant, PULMONOLOGY, which is vicariously liable for the negligence of Defendant TACKEY, as set forth above.

WHEREFORE, the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against the Defendant, PULMONOLOGY AND SLEEP CENTER, LLC, for damages in an amount to be determined at trial in this matter, interest, costs and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT XV – WRONGFUL DEATH MEDICAL MALPRACTICE AGAINST  
DEFENDANT, DELRAY MEDICAL CENTER, INC. – VICARIOUS LIABILITY FOR  
FREDERICK TACKEY, M.D. – APPARENT AGENCY**

95. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 46 and 90 through 92 of this Complaint as if specially alleged herein.

96. As alleged above, Defendant DMC, INC., by and through its website, advertisements, actions, statements, statements of its employees and agents, and all other material factors, held Defendant TACKEY out as its agent and/or employee, and caused or allowed PAUL MICHAEL FLOYD to believe that TACKEY was an agent of and had authority to act for DMC, INC., and PAUL MICHAEL FLOYD justifiably relied upon that belief in accepting medical treatment from Defendant TACKEY.

97. At all times material hereto, Defendant TACKEY was an apparent agent of Defendant, DMC, INC., and was acting within the scope of his apparent authority at the time and place of the incidents described herein.

98. Based upon the foregoing allegations, Defendant, DMC, INC., is vicariously liable for the negligence of its apparent agent, Defendant, TACKEY.

WHEREFORE the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against the Defendant, DELRAY MEDICAL CENTER, INC., for damages in an amount to be determined at trial in this matter, interest, costs and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT XVI – WRONGFUL DEATH MEDICAL MALPRACTICE AGAINST  
DEFENDANT, DELRAY MEDICAL CENTER, INC. – VICARIOUS LIABILITY FOR  
FREDERICK TACKEY, M.D. – ACTUAL AGENCY**

99. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 46 and 90 through 92 of this Complaint as if specially alleged herein.

100. At all times material hereto, as set forth above, the actions of Defendant TACKEY were controlled, or were subject to the right of control, by the Defendant, DMC, INC., making him an actual agent of Defendant DMC, INC.

101. Based upon the foregoing allegations, Defendant DMC, INC., is vicariously liable for the negligence of its actual agent, Defendant TACKEY.

WHEREFORE the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against the Defendant, DELRAY MEDICAL CENTER, INC., for damages in an amount to be determined at trial in this matter, interest, costs, and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT XVII – WRONGFUL DEATH NURSING MALPRACTICE AGAINST DEFENDANT, DELRAY MEDICAL CENTER, INC. – NURSING NEGLIGENCE**

102. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 46 of this Complaint as if specially alleged herein.

103. At all material times, Defendant DMC, INC., by and through its nurse employees who treated PAUL MICHAEL FLOYD after he was admitted to the hospital at Delray Medical Center in October of 2023, had a duty to provide its patient, PAUL MICHAEL FLOYD, with reasonably careful nursing treatment within the standard of care for nurses in this community.

104. Defendant DMC, INC., by and through its nurse employees, deviated from the acceptable standards of care for emergency department nurses in this community, and failed to act as a reasonably careful nurses with regards to their treatment of PAUL MICHAEL FLOYD, in the following ways, without limitation:

- a. failing to recognize the highly concerning neurological risk factors that Mr. Floyd was exhibiting;
- b. failing to properly document and chart Mr. Floyd's headaches and report to the attending physician,
- c. failing to recognize a widened pulse pressure,
- d. failing to advocate for the patient to get brain imaging and neurological workup,
- e. failing to bring to the attention of the attending physician (or charge nurse or other authoritative figure) Mr. Floyd's neurological risk factors and symptomology to ensure that proper medical attention would be given;
- f. failing to properly report and alert the attending physician, charge nurse, or other authoritative figure of Mr. Floyd's presentation, neurological complaints, and symptomology;
- g. failing to conduct themselves as the reasonably careful hospital floor nurse would under the same or similar circumstances.

105. As a direct and proximate result of the negligence of the nurse employees of Defendant DMC, INC., for whom the corporation is vicariously liable, the decedent, PAUL MICHAEL FLOYD, suffered a wrongful death on October 23, 2023.

WHEREFORE the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against Defendant, DELRAY MEDICAL CENTER, INC., for damages in an amount to be determined at trial in this matter, interest, costs and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

**COUNT XVIII – WRONGFUL DEATH MEDICAL MALPRACTICE AGAINST  
DEFENDANT, DELRAY MEDICAL CENTER, INC.**

106. Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, re-adopts and re-alleges paragraphs 1 through 46 of this Complaint as if specially alleged herein.

107. At all material times, Defendant DMC, INC., had a duty to, and undertook the duty to, act as the reasonably careful hospital administration promulgating rules, regulations, policies and procedures for patient safety and medical treatment for the hospital's patients such as PAUL MICHAEL FLOYD.

108. Defendant DMC, INC., deviated from the acceptable standards of care for hospital administration in this community regarding the medical and nursing treatment provided to PAUL MICHAEL FLOYD from October 19, 2023, through October 22, 2023, in the following manners, without limitation:

- a. failing to have proper policies and procedures for the assessment and treatment of patients with severe hypertension and hypertensive crisis;
- b. failing to have proper policies and procedures for ordering brain imaging;

- c. failing to have proper policies and procedures for assessing stroke risk and treatment of strokes;
- d. failing to have proper policies and procedures for nurses to advocate for their patients;
- e. failing to have proper policies and procedures for obtaining a medical specialist consult for its patients;
- f. failing to have proper policies and procedures for assessment and treatment of intracranial hemorrhage;
- f. failing to conduct themselves as the reasonably careful hospital would under the same or similar circumstances.

109. As a direct and proximate result of the negligence of Defendant DMC, INC., the decedent, PAUL MICHAEL FLOYD, suffered a wrongful death on October 23, 2023.

WHEREFORE the Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, demands judgment against the Defendant, DELRAY MEDICAL CENTER, INC., for damages in an amount to be determined at trial in this matter, interest, costs and any other or further relief that this Court deems just and proper. The Plaintiff, LAURA FLOYD, as Personal Representative of the Estate of PAUL MICHAEL FLOYD, further demands a trial by jury on all issues triable as a matter of right.

*Date and Signature on Next Page*

Dated this 14<sup>th</sup> day of June, 2024

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