

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT, IN AND FOR PALM
BEACH COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

MICHAEL V. BAXTER, as Personal
Representative of the Estate and Survivors of
SHAUN MCCULLERS, deceased,

CASE NO:

Plaintiff,

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

v.

WEST BOCA MEDICAL CENTER, INC.
dba WEST BOCA MEDICAL CENTER, a
Florida corporation; VLADIMIR
KOTELNIK, M.D., individually; and
PARAGON CONTRACTING SERVICES,
LLC, a Florida limited liability company,

Defendants.

Plaintiff Michael V. Baxter, as Personal Representative of the Estate and Survivors of Shaun McCullers, deceased, sues West Boca Medical Center, Inc. *dba* West Boca Medical Center; a Florida corporation; Defendant Vladimir Kotelnik, M.D., individually; and Paragon Contracting Services, LLC, a Florida limited liability company, and state:

JURISDICTION, PARTIES, & VENUE

1. This is an action for damages that exceed fifty thousand dollars (\$50,000.00), exclusive of interest, costs, and attorneys' fees.

2. Defendant West Boca Medical Center, Inc., at all times relevant, has been a Florida corporation, authorized to do business and doing business in Palm Beach County, Florida. Defendant West Boca Medical Center, Inc. at all times relevant has operated a facility commonly known as "West Boca Medical Center" in Palm Beach County, Florida. Defendant West Boca Medical Center,

Inc. owns the fictitious name “West Boca Medical Center.”

3. Defendant Paragon Contracting Services, LLC, at all times relevant, has been a Florida limited liability company, authorized to do business and doing business in Palm Beach County, Florida. Defendant Paragon Contracting Services, LLC, at all times relevant has been a staffing or management company that provides physicians for work in hospital emergency departments, and provided physicians – including but not limited to Dr. Vladimir Kotelnik – to work in the facility commonly known as “West Boca Medical Center” in Palm Beach County, Florida.

4. Defendant Vladimir Kotelnik, M.D., at all times relevant, has been a medical doctor licensed by the State of Florida, practicing in the field of emergency medicine in Palm Beach County, Florida.

5. When Defendant Vladimir Kotelnik, M.D., provided care to Shaun McCullers while Mr. McCullers was a patient of West Boca Medical Center, Dr. Kotelnik was an employee, agent, apparent agent or representative of West Boca Medical Center, Inc., acting within the course and scope of that employment, agency, apparent agency, or representative capacity, under West Boca Medical Center, Inc.’s control, and in furtherance of West Boca Medical Center, Inc.’s interests, thereby making Defendant West Boca Medical Center, Inc. vicariously liable for his acts or omissions. This is true of the entire time Mr. McCullers was Dr. Kotelnik’s patient on May 26, 2025.

6. When Defendant Vladimir Kotelnik, M.D., provided care to Shaun McCullers while Mr. McCullers was a patient of West Boca Medical Center, Dr. Kotelnik was an employee, agent, apparent agent or representative of Paragon Contracting Services, LLC, acting within the course and scope of that employment, agency, apparent agency, or representative capacity, under Paragon Contracting Services, LLC’s control, and in furtherance of Paragon Contracting Services, LLC’s interests, thereby making Defendant Paragon Contracting Services, LLC vicariously liable for his acts

or omissions. This is true of the entire time Mr. McCullers was Dr. Kotelnik's patient on May 26, 2025.

7. When Defendant Vladimir Kotelnik, M.D., provided care to Shaun McCullers while Mr. McCullers was a patient of West Boca Medical Center, Dr. Kotelnik was a dual employee, dual agent, dual apparent agent or dual representative of both West Boca Medical Center, Inc. and Paragon Contracting Services, LLC, acting within the course and scope of that dual employment, dual agency, dual apparent agency, or dual representative capacity, under the control of both West Boca Medical Center, Inc. and Paragon Contracting Services, LLC, and in furtherance of the interests of both West Boca Medical Center, Inc. and Paragon Contracting Services, LLC, thereby making both West Boca Medical Center, Inc. and Defendant Paragon Contracting Services, LLC vicariously liable for his acts or omissions. This is true of the entire time Mr. McCullers was Dr. Kotelnik's patient on May 26, 2025.

8. Plaintiffs Shaun McCullers at all times relevant was an adult resident of Palm Beach County, Florida, and lawfully wed to Denise McCullers.

9. Denise McCullers, who at all times relevant was lawfully wed to Shaun McCullers, is the surviving spouse of Shaun McCullers as defined by section 768.18(1), Florida Statutes.

10. Angeline Nichole McCullers, whose year of birth is 2007, is a surviving minor child of Shaun McCullers as defined by section 768.18(2), Florida Statutes.

11. Shaun Michael McCullers, whose year of birth is 2008, is a surviving minor child of Shaun McCullers as defined by section 768.18(2), Florida Statutes.

12. Cheryl Ann Hynds, whose year of birth is 1988, is a survivor of Shaun McCullers as defined by section 768.18(1), Florida Statutes.

13. Christina Diane McCullers, whose year of birth is 1993, is a survivor of Shaun

McCullers as defined by section 768.18(1), Florida Statutes.

14. Alexandria Elizabeth Hynds, whose year of birth is 2010, is a survivor of Shaun McCullers as defined by section 768.18(1), Florida Statutes.

15. Michael V. Baxter has been appointed Personal Representative of the Estate and Survivors of Shaun McCullers, deceased.

16. All conditions precedent to bringing this action have occurred, have been waived, or have been otherwise satisfied, including the requirements set forth in Chapter 766 of the Florida Statutes. A Notice of Intent to Initiate Litigation letter was served on Defendants along with accompanying affidavits and medical records.

17. All acts and omissions on which the causes of action stated herein are based occurred in Palm Beach County, Florida.

FACTS GIVING RISE TO CLAIM

18. On May 26, 2025, Shaun McCullers, a 55-year-old man, presented to the Emergency Department at West Boca Medical Center with worsening shortness of breath for three weeks that he described as "an inability to catch his breath." Mr. McCullers further reported that his use of an albuterol nebulizer at home provided only mild improvement. He was known to be a smoker and had a history of severe hyperlipidemia.

19. West Boca Medical Center provided Vladimir Kotelnik, M.D., as the physician to treat Mr. McCullers in its emergency department.

20. Despite the presenting signs, symptoms, and complaints, Dr. Kotelnik diagnosed Mr. McCullers with community-acquired pneumonia and discharged him home with a prescription for antibiotics.

21. Dr. Kotelnik did not order an echocardiogram; he did not obtain a cardiology consultation; he did not admit Mr. McCullers for observation with serial cardiac enzyme testing; he did not recognize Mr. McCullers's exertional dyspnea as an anginal equivalent; he did not correlate the chest X-ray findings with the clinical picture before defaulting to an infectious diagnosis; and he did not objectively exclude structural heart disease before discharging Mr. McCullers.

22. Mr. McCullers's cardiac condition further deteriorated untreated following his discharge on May 26, 2025. He was hospitalized on June 25, 2025 and was found to have a left ventricular ejection fraction of 20% and severe multivessel coronary artery disease. He underwent coronary artery bypass graft surgery on July 2, 2025. Mr. McCullers subsequently suffered bilateral below-knee amputations on August 20, 2025 due to dry gangrene caused by cardiogenic shock-related limb ischemia. Mr. McCullers passed away on September 13, 2025.

23. As a direct and proximate result of the acts and omissions of Defendants, as alleged above, Mr. McCullers's cardiac condition further deteriorated untreated, and he suffered severe and permanent injuries, including bilateral leg amputations, and ultimately his death.

24. As a direct and proximate result of the acts and omissions of Defendants, and Mr. McCullers's resulting death, the Estate of Shaun McCullers suffered the loss of prospective net accumulations, as well as funeral, cemetery, and medical expenses. The Estate is legally entitled to recover these damages under section 768.21(6) of the Florida Statutes.

25. As a direct and proximate result of the acts and omissions of Defendants, and Mr. McCullers's resulting death, Denise McCullers suffered the loss of her spouse's companionship and protection, as well as mental pain and suffering from the date of injury to the present, and will continue to suffer all such losses in the future. In addition, she paid for some or all of the funeral and cemetery

expenses. Denise McCullers is legally entitled to recover these damages under section 768.21(1), (2) & (5) of the Florida Statutes.

26. As a direct and proximate result of the acts and omissions of Defendants, and Mr. McCullers's resulting death, Angeline Nichole McCullers suffered a loss of support and services, parental companionship, instruction, and guidance from the date of death to the present and will continue to suffer such losses in the future. She also has suffered mental pain and suffering from the date of injury to the present and will continue to suffer such losses in the future. Angeline Nichole McCullers is legally entitled to recover these damages under section 768.21(1) & (3) of the Florida Statutes.

27. As a direct and proximate result of the acts and omissions of Defendants, and Mr. McCullers's resulting death, Shaun Michael McCullers suffered a loss of support and services, parental companionship, instruction, and guidance from the date of death to the present and will continue to suffer such losses in the future. He also has suffered mental pain and suffering from the date of injury to the present and will continue to suffer such losses in the future. Shaun Michael McCullers is legally entitled to recover these damages under section 768.21(1) & (3) of the Florida Statutes.

28. As a direct and proximate result of the acts and omissions of Defendants, and Mr. McCullers's resulting death, Cheryl Ann Hynds suffered a loss of support and services from the date of death to the present and will continue to suffer such losses in the future. Cheryl Ann Hynds is legally entitled to recover these damages under section 768.21(1) of the Florida Statutes.

29. As a direct and proximate result of the acts and omissions of Defendants, and Mr. McCullers's resulting death, Christina Diane McCullers suffered a loss of support and services from the date of death to the present and will continue to suffer such losses in the future. Christina Diane

McCullers is legally entitled to recover these damages under section 768.21(1) of the Florida Statutes.

30. As a direct and proximate result of the acts and omissions of Defendants, and Mr. McCullers's resulting death, Alexandria Elizabeth Hynds suffered a loss of support and services from the date of death to the present and will continue to suffer such losses in the future. Alexandria Elizabeth Hynds is legally entitled to recover these damages under section 768.21(1) of the Florida Statutes.

COUNT 1
VICARIOUS LIABILITY CLAIMS AGAINST
DEFENDANT WEST BOCA MEDICAL CENTER, INC.
dba WEST BOCA MEDICAL CENTER FOR NEGLIGENCE

31. Paragraphs one through thirty (1 - 30) are adopted and restated as if fully set forth herein.

32. At all times relevant, Defendant West Boca Medical Center, Inc. owed a duty to Mr. McCullers to provide that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.

33. Defendant West Boca Medical Center, Inc., through its employees, agents, apparent agents, servants, or representatives – including but not limited to Dr. Kotelnik – breached its duty to Mr. McCullers through one or more of the following acts or omissions:

- a. Failing to provide acceptable and appropriate care under circumstances that demonstrated a reckless disregard for the life or health of Mr. McCullers;
- b. Failing to adequately warn Mr. McCullers or his family, given his neurologic presentation, under circumstances that demonstrated a reckless disregard for the life or health of Mr. McCullers;
- c. Failing to provide acceptable and appropriate care under such circumstances that the health care providers knew or should have known at the time the services were rendered that their conduct – individually and in combination – created an unreasonable risk of injury so as to affect the life or health of Mr. McCullers, and such risk was substantially greater than that which is necessary to make the conduct negligent;

- d. Dr. Kotelnik performed an incomplete cardiac rule-out in the setting of persistent exertional dyspnea by relying on a single set of cardiac biomarkers, which does not reliably exclude unstable coronary disease or evolving ischemic cardiomyopathy in a 55-year-old heavy smoker with severe hyperlipidemia presenting with several weeks of progressive exertional dyspnea; the standard of care required meaningful risk stratification and consideration of observation with serial cardiac enzyme testing, but Dr. Kotelnik failed to do so in reckless disregard for Mr. McCullers's life or health;
- e. Dr. Kotelnik failed to recognize Mr. McCullers's exertional dyspnea as an anginal equivalent; exertional dyspnea in a high-risk patient is a recognized anginal equivalent, and even in the setting of a single normal troponin, unstable angina and high-grade coronary stenosis remain possible, but the documentation does not reflect adequate consideration of unstable coronary disease as a cause of Mr. McCullers's symptoms, all of which was in reckless disregard for Mr. McCullers's life or health;
- f. Dr. Kotelnik relied on a non-diagnostic chest X-ray, which showed mild interstitial prominence without focal consolidation, fever, or leukocytosis, to diagnose community-acquired pneumonia as the primary etiology, without correlating the imaging with the full clinical picture, including the possibility that the mild interstitial findings represented early cardiac congestion rather than infection, in reckless disregard for Mr. McCullers's life or health;
- g. Dr. Kotelnik failed to escalate the workup or disposition given the subacute duration of Mr. McCullers's symptoms; Mr. McCullers described several weeks of worsening exertional limitation that substantially increased the pretest probability of underlying structural heart disease, and the standard of care required either admission, cardiology consultation, or expedited structured follow-up with documented urgency, but Dr. Kotelnik failed to do so in reckless disregard for Mr. McCullers's life or health;
- h. Dr. Kotelnik discharged Mr. McCullers without objectively excluding structural heart disease; structural causes such as reduced ejection fraction or ischemic cardiomyopathy were not assessed, no echocardiogram was arranged, and no stress testing pathway was initiated, constituting an incomplete workup in a high-risk patient with unresolved exertional dyspnea, in reckless disregard for Mr. McCullers's life or health;
- i. Dr. Kotelnik should have advised Mr. McCullers that his symptoms were consistent with and suspicious for structural heart disease, unstable coronary disease or evolving ischemic cardiomyopathy, that he should remain at the hospital and receive further testing and intervention to address his true condition, but Dr. Kotelnik failed to do so in reckless disregard for Mr. McCullers's life or health;

- j. Dr. Kotelnik failed to possess the requisite knowledge to provide appropriate care to Mr. McCullers regarding the risks of being discharged without an adequate diagnostic work-up and intervention, in reckless disregard for Mr. McCullers's life or health;
- k. Dr. Kotelnik failed to follow appropriate guidelines for evaluating a patient with persistent and progressive exertional dyspnea (an anginal equivalent in a high risk patient), signs, and symptoms consistent with and concerning for aneurysm, in reckless disregard for Mr. McCullers's life or health;
- l. Dr. Kotelnik failed to follow appropriate guidelines for a CT with contrast after presentation of neurological deficits, signs, and symptoms consistent with and concerning for structural heart disease, unstable coronary disease or evolving ischemic cardiomyopathy, in reckless disregard for Mr. McCullers's life or health; and
- m. Dr. Kotelnik failed to advise Mr. McCullers of his true condition, including the risks it posed and appropriate treatments available to him.

34. These breaches all were in reckless disregard of Mr. McCullers's safety and wellbeing and created an unreasonable risk of injury to the life or health of Mr. McCullers.

35. It was foreseeable to Defendant West Boca Medical Center, Inc. that these breaches would result in injury to Mr. McCullers, up to and including death.

36. Defendant West Boca Medical Center, Inc. – through its employees, agents, apparent agents, servants, or representatives, including but not limited to Dr. Kotelnik – knew or should have known, at the time such services were rendered, that the conduct created an unreasonable risk of injury so as to affect the life or health of another, and such risk was substantially greater than that which is necessary to make the conduct negligent.

37. Defendant West Boca Medical Center, Inc. is vicariously liable for the acts of its employees, agents, apparent agents, servants, or representatives – including but not limited to Dr. Kotelnik – during their care of Mr. McCullers at West Boca Medical Center on May 26, 2025.

38. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and his Estate suffered the damages set forth in paragraph 24.

39. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Denise McCullers suffered the damages set forth in paragraph 25.

40. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Angeline Nichole McCullers suffered the damages set forth in paragraph 26.

41. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Shaun Michael McCullers suffered the damages set forth in paragraph 27.

42. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Cheryl Hinds suffered the damages set forth in paragraph 28.

43. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Christina Diana McCullers suffered the damages set forth in paragraph 29.

44. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Alexandria Elizabeth Hynds suffered the damages set forth in paragraph 30.

WHEREFORE, Plaintiff Michael V. Baxter, as Personal Representative of the Estate and Survivors of Shaun McCullers, demands judgment against Defendant West Boca Medical Center, Inc. *dba* Defendant West Boca Medical Center for compensatory damages, costs of this action, post-judgment interest, and such further relief as this Court deems just and proper.

COUNT 2

CLAIMS FOR NEGLIGENCE AGAINST DEFENDANT VLADIMIR KOTELNIK, M.D.

45. Paragraphs one through thirty (1 - 30) are adopted and restated as if fully set forth herein.

46. At all times relevant, Defendant Vladimir Kotelnik, M.D., owed a duty to Mr. McCullers to provide that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.

47. Defendant Vladimir Kotelnik, M.D., breached his duty to Mr. McCullers through one or more of the following acts or omissions:

- a. Failing to provide acceptable and appropriate care under circumstances that demonstrated a reckless disregard for the life or health of Mr. McCullers;

- b. Failing to adequately warn Mr. McCullers or his family, given his neurologic presentation, under circumstances that demonstrated a reckless disregard for the life or health of Mr. McCullers;
- c. Failing to provide acceptable and appropriate care under such circumstances that the health care providers knew or should have known at the time the services were rendered that their conduct – individually and in combination – created an unreasonable risk of injury so as to affect the life or health of Mr. McCullers, and such risk was substantially greater than that which is necessary to make the conduct negligent;
- d. Dr. Kotelnik performed an incomplete cardiac rule-out in the setting of persistent exertional dyspnea by relying on a single set of cardiac biomarkers, which does not reliably exclude unstable coronary disease or evolving ischemic cardiomyopathy in a 55-year-old heavy smoker with severe hyperlipidemia presenting with several weeks of progressive exertional dyspnea; the standard of care required meaningful risk stratification and consideration of observation with serial cardiac enzyme testing, but Dr. Kotelnik failed to do so in reckless disregard for Mr. McCullers's life or health;
- e. Dr. Kotelnik failed to recognize Mr. McCullers's exertional dyspnea as an anginal equivalent; exertional dyspnea in a high-risk patient is a recognized anginal equivalent, and even in the setting of a single normal troponin, unstable angina and high-grade coronary stenosis remain possible, but the documentation does not reflect adequate consideration of unstable coronary disease as a cause of Mr. McCullers's symptoms, all of which was in reckless disregard for Mr. McCullers's life or health;
- f. Dr. Kotelnik relied on a non-diagnostic chest X-ray, which showed mild interstitial prominence without focal consolidation, fever, or leukocytosis, to diagnose community-acquired pneumonia as the primary etiology, without correlating the imaging with the full clinical picture, including the possibility that the mild interstitial findings represented early cardiac congestion rather than infection, in reckless disregard for Mr. McCullers's life or health;
- g. Dr. Kotelnik failed to escalate the workup or disposition given the subacute duration of Mr. McCullers's symptoms; Mr. McCullers described several weeks of worsening exertional limitation that substantially increased the pretest probability of underlying structural heart disease, and the standard of care required either admission, cardiology consultation, or expedited structured follow-up with documented urgency, but Dr. Kotelnik failed to do so in reckless disregard for Mr. McCullers's life or health;
- h. Dr. Kotelnik discharged Mr. McCullers without objectively excluding structural heart disease; structural causes such as reduced ejection fraction or ischemic cardiomyopathy were not assessed, no echocardiogram was arranged, and no stress

testing pathway was initiated, constituting an incomplete workup in a high-risk patient with unresolved exertional dyspnea, in reckless disregard for Mr. McCullers's life or health;

- i. Dr. Kotelnik should have advised Mr. McCullers that his symptoms were consistent with and suspicious for structural heart disease, unstable coronary disease or evolving ischemic cardiomyopathy, that he should remain at the hospital and receive further testing and intervention to address his true condition, but Dr. Kotelnik failed to do so in reckless disregard for Mr. McCullers's life or health;
 - j. Dr. Kotelnik failed to possess the requisite knowledge to provide appropriate care to Mr. McCullers regarding the risks of being discharged without an adequate diagnostic work-up and intervention, in reckless disregard for Mr. McCullers's life or health;
 - k. Dr. Kotelnik failed to follow appropriate guidelines for evaluating a patient with persistent and progressive exertional dyspnea (an anginal equivalent in a high risk patient), signs, and symptoms consistent with and concerning for aneurysm, in reckless disregard for Mr. McCullers's life or health;
 - l. Dr. Kotelnik failed to follow appropriate guidelines for a CT with contrast after presentation of neurological deficits, signs, and symptoms consistent with and concerning for structural heart disease, unstable coronary disease or evolving ischemic cardiomyopathy, in reckless disregard for Mr. McCullers's life or health; and
 - m. Dr. Kotelnik failed to advise Mr. McCullers of his true condition, including the risks it posed and appropriate treatments available to him.
48. These breaches all were in reckless disregard of Mr. McCullers's safety and wellbeing and created an unreasonable risk of injury to the life or health of Mr. McCullers.
49. It was foreseeable to Defendant Kotelnik that these breaches would result in injury to Mr. McCullers.
50. Defendant Kotelnik knew or should have known, at the time such services were rendered, that the conduct created an unreasonable risk of injury so as to affect the life or health of another, and such risk was substantially greater than that which is necessary to make the conduct negligent.
51. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and his Estate suffered the damages set forth in paragraph 24.
52. As a direct and proximate result of the acts and omissions of this Defendant, Shaun

McCullers died and Denise McCullers suffered the damages set forth in paragraph 25.

53. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Angeline Nichole McCullers suffered the damages set forth in paragraph 26.

54. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Shaun Michael McCullers suffered the damages set forth in paragraph 27.

55. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Cheryl Hinds suffered the damages set forth in paragraph 28.

56. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Christina Diana McCullers suffered the damages set forth in paragraph 29.

57. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Alexandria Elizabeth Hynds suffered the damages set forth in paragraph 30.

WHEREFORE, Plaintiff Michael V. Baxter, as Personal Representative of the Estate and Survivors of Shaun McCullers, demands judgment against Defendant Vladimir Kotelnik, M.D., for compensatory damages, costs of this action, post-judgment interest, and such further relief as this Court deems just and proper.

COUNT 3
VICARIOUS LIABILITY CLAIMS AGAINST DEFENDANT
PARAGON CONTRACTING SERVICES, LLC FOR NEGLIGENCE

58. Paragraphs one through thirty (1 - 30) are adopted and restated as if fully set forth herein.

59. At all times relevant, Defendant Paragon Contracting Services, LLC owed a duty to Mr. McCullers to provide that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.

60. Defendant Paragon Contracting Services, LLC, through its employees, agents, apparent agents, servants, or representatives – including but not limited to Dr. Kotelnik – breached its duty to Mr. McCullers through one or more of the following acts or omissions:

- a. Failing to provide acceptable and appropriate care under circumstances that demonstrated a reckless disregard for the life or health of Mr. McCullers;
- b. Failing to adequately warn Mr. McCullers or his family, given his neurologic presentation, under circumstances that demonstrated a reckless disregard for the life or health of Mr. McCullers;
- c. Failing to provide acceptable and appropriate care under such circumstances that the health care providers knew or should have known at the time the services were rendered that their conduct – individually and in combination – created an unreasonable risk of injury so as to affect the life or health of Mr. McCullers, and such risk was substantially greater than that which is necessary to make the conduct negligent;
- d. Dr. Kotelnik performed an incomplete cardiac rule-out in the setting of persistent exertional dyspnea by relying on a single set of cardiac biomarkers, which does not reliably exclude unstable coronary disease or evolving ischemic cardiomyopathy in a 55-year-old heavy smoker with severe hyperlipidemia presenting with several weeks of progressive exertional dyspnea; the standard of care required meaningful risk stratification and consideration of observation with serial cardiac enzyme testing, but Dr. Kotelnik failed to do so in reckless disregard for Mr. McCullers's life or health;
- e. Dr. Kotelnik failed to recognize Mr. McCullers's exertional dyspnea as an anginal equivalent; exertional dyspnea in a high-risk patient is a recognized anginal equivalent, and even in the setting of a single normal troponin, unstable angina and high-grade coronary stenosis remain possible, but the documentation does not reflect adequate consideration of unstable coronary disease as a cause of Mr. McCullers's symptoms, all of which was in reckless disregard for Mr. McCullers's life or health;
- f. Dr. Kotelnik relied on a non-diagnostic chest X-ray, which showed mild interstitial prominence without focal consolidation, fever, or leukocytosis, to diagnose community-acquired pneumonia as the primary etiology, without correlating the imaging with the full clinical picture, including the possibility that the mild interstitial findings represented early cardiac congestion rather than infection, in reckless disregard for Mr. McCullers's life or health;
- g. Dr. Kotelnik failed to escalate the workup or disposition given the subacute duration of Mr. McCullers's symptoms; Mr. McCullers described several weeks of worsening exertional limitation that substantially increased the pretest probability of underlying structural heart disease, and the standard of care required either admission, cardiology consultation, or expedited structured follow-up with documented urgency, but Dr. Kotelnik failed to do so in reckless disregard for Mr. McCullers's life or health;

- h. Dr. Kotelnik discharged Mr. McCullers without objectively excluding structural heart disease; structural causes such as reduced ejection fraction or ischemic cardiomyopathy were not assessed, no echocardiogram was arranged, and no stress testing pathway was initiated, constituting an incomplete workup in a high-risk patient with unresolved exertional dyspnea, in reckless disregard for Mr. McCullers's life or health;
 - i. Dr. Kotelnik should have advised Mr. McCullers that his symptoms were consistent with and suspicious for structural heart disease, unstable coronary disease or evolving ischemic cardiomyopathy, that he should remain at the hospital and receive further testing and intervention to address his true condition, but Dr. Kotelnik failed to do so in reckless disregard for Mr. McCullers's life or health;
 - j. Dr. Kotelnik failed to possess the requisite knowledge to provide appropriate care to Mr. McCullers regarding the risks of being discharged without an adequate diagnostic work-up and intervention, in reckless disregard for Mr. McCullers's life or health;
 - k. Dr. Kotelnik failed to follow appropriate guidelines for evaluating a patient with persistent and progressive exertional dyspnea (an anginal equivalent in a high risk patient), signs, and symptoms consistent with and concerning for aneurysm, in reckless disregard for Mr. McCullers's life or health;
 - l. Dr. Kotelnik failed to follow appropriate guidelines for a CT with contrast after presentation of neurological deficits, signs, and symptoms consistent with and concerning for structural heart disease, unstable coronary disease or evolving ischemic cardiomyopathy, in reckless disregard for Mr. McCullers's life or health; and
 - m. Dr. Kotelnik failed to advise Mr. McCullers of his true condition, including the risks it posed and appropriate treatments available to him.
61. These breaches all were in reckless disregard of Mr. McCullers's safety and wellbeing and created an unreasonable risk of injury to the life or health of Mr. McCullers.
62. It was foreseeable to Defendant Paragon Contracting Services, LLC that these breaches would result in injury to Mr. McCullers.
63. Defendant Paragon Contracting Services, LLC – through its employees, agents, apparent agents, servants, or representatives, including but not limited to Dr. Kotelnik – knew or should have known, at the time such services were rendered, that the conduct created an unreasonable risk of injury so as to affect the life or health of another, and such risk was substantially greater than that which is necessary to make the conduct negligent.

64. Defendant Paragon Contracting Services, LLC is vicariously liable for the acts of its employees, agents, apparent agents, servants, or representatives – including but not limited to Dr. Kotelnik – during their care of Mr. McCullers at West Boca Medical Center on May 26, 2025.

65. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and his Estate suffered the damages set forth in paragraph 24.

66. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Denise McCullers suffered the damages set forth in paragraph 25.

67. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Angeline Nichole McCullers suffered the damages set forth in paragraph 26.

68. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Shaun Michael McCullers suffered the damages set forth in paragraph 27.

69. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Cheryl Hinds suffered the damages set forth in paragraph 28.

70. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Christina Diana McCullers suffered the damages set forth in paragraph 29.

71. As a direct and proximate result of the acts and omissions of this Defendant, Shaun McCullers died and Alexandria Elizabeth Hynds suffered the damages set forth in paragraph 30.

WHEREFORE, Plaintiff Michael V. Baxter, as Personal Representative of the Estate and Survivors of Shaun McCullers, demands judgment against Defendant Paragon Contracting Services, LLC, for compensatory damages, costs of this action, post-judgment interest, and such further relief as this Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff Michael V. Baxter, as Personal Representative of the Estate and Survivors of Shaun McCullers, demands a trial by jury of all issues so triable as a matter of right.

Dated this 24th day of July 2026.

FREEDLAND HARWIN VALORI GANDER
& SPILLIS

Attorneys for Plaintiffs

999 Ponce de Leon Blvd, Suite 1030

Coral Gables, Florida 33134

Tel: (305) 421-9008; Fax: (954) 670-2530

/s/Deborah J. Gander

Deborah J. Gander

Florida Bar No. 34363

dgander@fhvlegal.com

maria@fhvlegal.com

CERTIFICATE OF PLAINTIFF'S COUNSEL

The undersigned counsel hereby certifies that she has made a reasonable investigation as permitted by the circumstances which has given rise to her belief that grounds exist for the subject action against Defendant West Boca Medical Center, Inc. *dba* West Boca Medical Center; Defendant Vladimir Kotelnik, M.D.; and Defendant Paragon Contracting Services, LLC.

Deborah J. Gander

DEBORAH J. GANDER