

IN THE CIRCUIT COURT OF THE
TWELFTH JUDICIAL CIRCUIT, IN AND
FOR SARASOTA COUNTY, FLORIDA

CASE NUMBER: 2018-CA-05321
DIVISION: A

JACK KOWALSKI, individually and on
behalf of his minor daughter, **MAYA**
KOWALSKI; and as Personal
Representative of the Estate of **BEATA**
KOWALSKI, Deceased,

Plaintiffs,

v.

JOHNS HOPKINS ALL CHILDREN'S
HOSPITAL, INC., and **CATHERINE**
BEDY,

Defendants.

EIGHTH AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, JACK KOWALSKI, individually and on behalf of his children, MAYA KOWALSKI, a minor, and KYLE KOWALSKI, a minor; and as Personal Representative of the Estate of BEATA KOWALSKI, by and through their undersigned attorneys, hereby sue Defendants, JOHNS HOPKINS ALL CHILDREN'S HOSPITAL, INC., and CATHERINE BEDY, and state:

PARTIES

1. Plaintiff, Maya Kowalski ("Maya"), a minor, at all times material hereto, was a resident of Venice, Sarasota County, Florida, and brings this action through her father and legal guardian, Jack Kowalski. At all times material hereto, Maya was the minor daughter of Beata Kowalski and Jack Kowalski, her mother and father. Further, at all times material hereto, Maya

was under the care and supervision of Johns Hopkins All Children's Hospital, Inc., including by and through its agent, Sally M. Smith, M.D.

2. Kyle Kowalski ("Kyle"), a minor, at all times material hereto, was a resident of Venice, Sarasota County, Florida, and brings this action for survivor benefits under Florida's Wrongful Death statute through his father and legal guardian, Jack Kowalski, who is the personal representative of the Estate of Beata Kowalski. At all times material hereto, Kyle was the minor son of Beata Kowalski and Jack Kowalski, his mother and father. Further, at various times material hereto, Kyle was under the care and treatment of Johns Hopkins All Children's Hospital, Inc., including by and through its agent, Sally M. Smith, M.D.

3. The Estate of Beata Kowalski is a party to this action as Beata Kowalski ("Beata"), the mother of Maya and Kyle and the wife of Jack Kowalski, died by suicide on January 8, 2017. At all times prior to her death, Beata was a resident of Venice, Sarasota County, Florida. Jack Kowalski, as the personal representative of the Estate of Beata Kowalski (the "Estate"), brings these actions on behalf of Beata and her Estate for her Wrongful Death and pre-death injuries and damages.

4. Plaintiff, Jack Kowalski ("Jack"), at all times material hereto, was a resident of Venice, Sarasota County, Florida, and was the father of Maya and Kyle and the husband of Beata, now deceased.

5. Defendant, Johns Hopkins All Children's Hospital, Inc. ("JHACH"), at all times material hereto, was and is a Florida not-for-profit corporation engaged in the business of providing medical services with its primary place of business at 501 Sixth Avenue South, St. Petersburg, Florida 33701. At all times material hereto, JHACH was acting as a private entity under contract with the State of Florida and/or local municipalities, including the County of

Sarasota. JHACH can be served in Florida through its registered agent, Jackie Crain, at 501 Sixth Avenue South, Legal, 6500002700, St. Petersburg, Florida 33701.¹ At all times material hereto, JHACH was wholly owned and controlled by Johns Hopkins Health System Corporation (“JHHSC”), a foreign not-for-profit corporation registered and doing business in the State of Florida, with sufficient contacts and an ongoing presence in the State of Florida through its employment of Defendant Bedy and every doctor and nurse and social worker pertinent to this action, such that this Court has jurisdiction over JHHSC. JHHSC can be served in Florida through its registered agent, JHACH, at 501 Sixth Avenue South, Attn: CEO, St. Petersburg, Florida 33701. Further, JHHSC committed tortious acts within the State by negligently managing then ratifying tortious actions of its employees, and wholly owned- Hospital JHACH, as plead *infra*, directly, and proximately caused the death of a citizen of the State of Florida and grievous injuries to three additional citizens of the State of Florida. JHHSC, by virtue of its direct, extended and systematic contacts with the State of Florida to manage its wholly owned subsidiary, JHACH, and its acts of negligence within the State of Florida in failing to properly manage its wholly owned subsidiary, subjected itself to the jurisdiction of the Courts of Florida;

6. Sally M. Smith, M.D. (“Smith” or “Dr. Smith”), at all times material hereto, was a pediatric doctor who maintained active staff privileges at JHACH, served on multiple executive committees at JHACH, served as JHACH’s Director of Child Abuse, and otherwise acted as an agent of JHACH at all times material hereto. Dr. Smith is and was a resident of Pinellas County,

¹ Per the Stipulation previously filed under seal as *Exhibit B* to Plaintiffs’ Complaint, Plaintiffs and Defendant, Johns Hopkins All Children’s Hospital, have agreed that Johns Hopkins accepts responsibility for the acts or omissions of all of its persons listed in *Exhibit C* (previously filed under seal as an Exhibit to the Complaint). Further, Johns Hopkins has stipulated per *Exhibit B* that should further Johns Hopkins’ employees/contractors involved in the facts and circumstances surrounding the present case be discovered throughout the course of the litigation, Johns Hopkins will accept legal responsibility for the additional parties discovered. By reference, *Exhibits B* and *C*, previously filed under seal, are fully incorporated into this Seventh Amended Complaint.

Florida. Dr. Smith can be served in Florida at her residence at 1080 16th Avenue North, St. Petersburg, Florida 33704, or at her place of employment at all times relevant hereto, Suncoast, 2960 Roosevelt Boulevard, Clearwater, Florida 33760.

7. At all times material hereto, Dr. Smith was an actual or apparent agent of JHACH in that JHACH held Smith out to the Kowalskis as their agent and/or tolerated or permitted Dr. Smith to hold herself out as JHACH's agent as pled *infra*.

8. Specifically, JHACH allowed Dr. Smith as an "active staff member" to freely enter into the facility and into Maya's room to offer care, treatment and medical diagnosis and opinions. JHACH allowed Dr. Smith to access Maya's medical records without the Kowalski's consent and prior to any shelter proceedings, in violation of HIPAA, and consulted with her colleagues at JHACH outside of any open investigation being initiated by the Child Protection Team concerning all aspects of Maya's care. Upon their first meeting, JHACH affirmatively represented by word and action to Jack and Maya that Dr. Smith was there to examine and treat her as a hospital pediatrician exactly as every other hospital pediatrician attending to Maya. In fact, Dr. Smith was held out as "one of our doctors" or words to that effect by doctors and nurses in the ER and later on the floor where Maya was kept. When it became obvious that both Maya, Jack and Beata were looking to Dr. Smith as someone there to treat Maya on behalf of JHACH, and thus opened up to explain all about Maya's medical history and condition neither Dr. Smith nor JHACH corrected this misapprehension. Finally, even months of Dr. Smith's care of Maya, which included directing Maya's infusion port be surgically removed and that she be unnecessarily "weaned off" all pain medication, JHACH Risk Management and doctors including Drs. Vose and Major, who held managerial positions at JHACH, still failed to correct any misapprehensions as to Dr. Smith's role, thereby ratifying and condoning her position as representative and agent of JHACH with full

authority to make critical decisions for patients such as Maya. As admitted by Dr. Teppa-Sanchez, Dr. Smith “ran” JHACH’s child abuse program and was their “go to” doctor in this area.

9. There was an obvious close-knit relationship between social worker Bedy and Smith and between Dr. Smith and all the attending physicians treating Maya. Dr. Smith was repeatedly presented to the Kowalskis as just another pediatrician there to help Maya. Moreover, Dr. Smith intentionally made clear to the Kowalskis that she was a “hospital pediatrician” and thus a JHACH employee.

10. While diagnosing and treating Maya, JHACH and Dr. Smith offered opinions using the pronoun “we”, which Plaintiffs reasonably understood to mean Dr. Smith and the other involved JHACH physicians and staff.

11. As the Plaintiffs watched, Dr. Smith directed the other doctors and staff about the appropriate diagnosis (so-called Munchausen by Proxy [“MbP”] and/or Pediatric Falsification Syndrome and the alleged absence of Maya’s CRPS signs and symptomology) and treatment, Jack and Maya justifiably relied upon Smith’s apparent authority just as if JHACH had expressly conferred that authority to Dr. Smith and communicated same to Plaintiffs.

12. Moreover, upon information and belief, Dr. Smith directly and/or indirectly issued orders to JHACH physicians and staff, such as isolating Maya, covertly surveilling Maya by video for a period of approximately 48 hours, ordering a regime of physical therapy, issuing directions to wean Maya off pain medications, and placing restrictions on the Kowalskis’ visitation rights within JHACH. Further, Dr. Smith was the author of the Medical Reports adopted by JHACH and relied upon by all of its physicians and the primary proponent of the diagnosis of MbP and victimization of Maya by MbP at the hands of her mother Beata. These diagnoses were accepted by JHACH, and the recommended course of treatment initiated pursuant to Dr. Smith’s direction and requests.

Although Dr. Smith was in regular contact with the hospitalists generally charged with Maya's care and treatment at JHACH, and directed Maya's treatment by text message and otherwise, Plaintiffs, and each of them, were never informed that Dr. Smith was directing the plan of care, and the Plaintiffs justifiably relied on these recommendations as if they came directly from JHACH and its Risk Management.

13. These representations and directions began, upon information and belief, during a phone call between Dr. Smith and JHACH physician(s) on October 8, 2016, and the oral and written representations and diagnosis continued throughout Maya's sheltering at JHACH. In short, Dr. Smith orchestrated Maya's plan of care.

14. At all times material to the allegations herein, Dr. Smith was either the employee, agent or apparent agent of JHACH and as a consequence, JHACH is vicariously responsible for the acts of Dr. Smith as alleged herein.

15. Defendant, Catherine Bedy, at all times material hereto, was a social worker employed by JHACH. Ms. Bedy can be served at her residence at 8 Pelican Place in Belleair, Florida 33756. As JHACH employed Ms. Bedy, JHACH is vicariously liable for Ms. Bedy's acts and/or omissions alleged herein.

VENUE

16. This is an action for damages in excess of \$30,000.00, exclusive of interest, fees and costs.

17. The acts and/or omissions giving rise to at least two causes of action accrued in Sarasota County, Florida. Additionally, the acts and/or omissions of Defendants culminated in ultimate injury to Plaintiffs at their residence, where Beata tragically committed suicide to free her daughter. Therefore, pursuant to Fla. Stat. § 47.011, jurisdiction and venue are appropriate in the

Twelfth Judicial Circuit Court, in and for Sarasota County. Plaintiffs bring this action pursuant to a Fla. Stat. Chapters 39 and 766 and state common law tort actions and pleads in the alternative both Wrongful Death and Survivor actions with respect to the Estate of Beata Kowalski.

18. As such, and due to its volatile nature, this case has been the subject of repeated and continuous media coverage throughout the State of Florida and each and every County therein, through local press coverage, national press coverage in the New York Magazine and press syndication via the AP, and via social media distribution through sites such as Facebook and Twitter. The level of coverage makes the choice of a particular County venue irrelevant insofar as there is no discernable difference in the degree of media coverage within any particular geographical area where this action could be properly brought.

BACKGROUND

19. In July of 2015, Maya, then 9 years old, suffered from a severe asthma attack and was admitted into JHACH. During her stay, Maya began exhibiting severe pain manifestation and significant weakness. As one Doctor at JHACH noted, “[w]ith very light touch of any body part, patient began crying but could intermittently stop to converse about manatees and other things she enjoys.” JHACH initially provided a potential diagnosis of steroid induced myopathy, as steroids had recently been administered by her treating physicians in significant doses.

20. After following a treatment regimen recommended by her pediatrician, consulting several other providers who were unable to determine the true cause of her condition, and following several months of debilitating, severe pain and increasing muscle weakness, Maya was referred to Dr. Anthony F. Kirkpatrick (“Dr. Kirkpatrick”), a leading, international expert in the treatment of Complex Regional Pain Syndrome (“CRPS”). On or about September 23, 2015, Dr. Kirkpatrick diagnosed Maya with CRPS. Subsequent to Dr. Kirkpatrick’s diagnosis, other experts

and specialists in the fields of pain management, neurology, and psychiatry confirmed Maya's CRPS diagnosis. These experts and specialists include, but are not limited to, Dr. Ashraf F. Hanna ("Dr. Hanna"), a board-certified anesthesiologist; Dr. Pradeep Chopra ("Dr. Chopra"), a double board-certified pain management and CRPS specialist who serves as the Director of the Pain Management Center and Assistant Clinical Professor at Brown University Medical School in Rhode Island; Dr. Carl Barr ("Dr. Barr"), a pediatric neurologist; Dr. Tashawna Duncan ("Dr. Duncan"), a licensed psychologist; and Dr. Allan Spiegel ("Dr. Spiegel"), a licensed neurologist.

21. CRPS is a devastatingly painful and debilitating neuropathic condition. CRPS is generally caused by damage to or malfunction of the central nervous system and typically affects an individual's extremities, causing excruciating pain, misinterpretation of otherwise everyday normal stimuli as painful, bone tenderness, stiffness, spasms, limited mobility, and abnormal movement of the affected limb(s), among other symptoms. The pain experienced by those suffering from CRPS is described as shooting, stabbing, burning, bone-crushing, and unrelenting. CRPS can also cause swelling, lesions, changes in skin color, dystonia, and changes in skin temperature. Consistent with these symptoms, on December 7, 2015, Dr. [redacted per agreement], a JHACH endocrinologist who saw Maya for adrenal insufficiency, noted that Maya had lesions consistent with CRPS manifesting at that time.

22. CRPS is treated in a variety of ways, including specialized physical therapy, psychotherapy, neural stimulation, sympathetic nerve blocks, spinal simulations, and pain medications. Additionally, Ketamine infusion treatments are a recognized method of treating debilitating CRPS when other treatments have failed or have provided little relief. Ketamine infusion therapy is clinically accepted in the treatment of CRPS as it effectively, temporarily blocks pain receptors, allowing an individual's body to reverse the sensitization process and

eliminate pain associated with CRPS.

23. Following Maya's CRPS diagnosis, Dr. Kirkpatrick provided an initial series of Ketamine infusion treatments for Maya. The initial treatments administered by Dr. Kirkpatrick had some benefit, and upon the advice and coordination of Maya's CRPS specialists, including Dr. Kirkpatrick, Jack and Beata took Maya to a CRPS clinic in Mexico for a specialized Ketamine infusion therapy treatment, commonly known as a "Ketamine coma," not available in the United States. The treatment was effective, but follow-up booster Ketamine treatments were necessary thereafter and were administered first by Dr. Kirkpatrick, and later, by Dr. Hanna.

24. Due to these booster Ketamine infusion therapies, Maya's CRPS symptoms steadily improved in early 2016. During an admission at JHACH in March of 2016, and upon the request of Maya's specialists, doctors at JHACH evaluated Maya and determined a "port" was medically appropriate for assisting her CRPS infusions. JHACH doctors then prescribed and performed a surgical procedure to place a semi-permanent plastic tube through Maya's skin and into her muscle, commonly known as a "port", specifically for the purpose of facilitating the necessary Ketamine infusions. Bizarrely, given JHACH's role in facilitating Maya's Ketamine infusion treatments, these infusions later served as Defendants' rationale for taking Maya away from her family for over three months and accusing her mom of child abuse and Maya of being a psychiatric patient who made up all the pain she expressed.

25. Following JHACH's surgical placement of this port, Maya continued her Ketamine infusions, IVIG therapies, hyperbaric oxygen therapies, and specialized physical therapies for two more months under the care of her treating specialists and primary care, including doctors at JHACH. In May of 2016, a JHACH Pulmonologist sent a note to Maya's Pediatrician, Dr. John Wassenaar, and noted the significant improvement in Maya's condition and pain levels after

having undergone the above outlined therapies for her CRPS.

26. Given her steady improvement facilitated by the Ketamine infusion treatments JHACH facilitated, the frequency of Maya's Ketamine infusions waning over the summer of 2016. However, as often happens with CRPS patients, Maya would suffer "flare-ups" of her symptoms, as CRPS is a permanent though periodic disease. As documented by another one of Maya's treating CRPS specialists, Dr. Hanna, Maya experienced another flare-up in September of 2016.

27. In October of 2016, after the frequency of her Ketamine infusion therapies increased, Maya began experiencing a reoccurrence of abdominal pain and vomiting. Upon the advice of Dr. Hanna, on the morning of October 7, 2016, Jack Kowalski transported Maya to JHACH for treatment of these symptoms. Beata Kowalski later arrived at the hospital and explained Maya's condition as best she could to the ER staff unfamiliar with Maya's condition and CRPS. The Kowalskis related the appropriate dosages of pain medications for a child with CRPS, which were and are significantly greater than the typical dosages for children who do not suffer from CRPS, but which are supported by clear and documented clinical results for that condition. The JHACH pain team called Dr. Hanna, who confirmed the CRPS diagnosis and the recommended levels of pain medications, including Ketamine, The JHACH ER and Pediatric Care Unit ("PICU") team, however, immediately ignored Dr. Hanna's recommendations, despite their admitted lack of clinical or academic experience with CRPS.

28. During the course of their examination, certain JHACH personnel also indicated they wanted Maya to undergo medical procedures necessitating physical contact with the patient that would be painful for a CRPS patient, such as applying a blood pressure cuff, administering an EKG, and undergoing additional scans. While seemingly benign and innocuous to physicians unfamiliar with CRPS, such contact can and often does cause flare-ups of the condition. Maya's

parents informed JHACH that Maya's CRPS required certain precautions in performing these tests and examinations to reduce the amount of discomfort and pain for their daughter. Nonetheless, JHACH insisted on performing the tests and Maya's parents provided recommendation to ease Maya's pain during the tests.

29. Upon information and belief, certain JHACH personnel, despite their unfamiliarity with treating CRPS and despite Dr. Hanna's corroboration of Beata and Jack's relaying of the recommended CRPS treatments, became offended and defensive by the suggestions given by the mother (a registered IV Nurse) and father (a retired Chicago firefighter). Almost immediately, Defendants, and specifically, Debra Hansen, a social worker employed by JHACH, reported Beata to the DCF Child Abuse Hotline, claiming that Beata was interfering with Maya's treatment and there was a disagreement about dosages of Ketamine.

30. The DCF Investigator immediately reached out to Maya's specialist and confirmed that Maya *did* have CRPS and the mother's requesting of Dr. Kirkpatrick's and Hanna's doses of Ketamine administration by infusion were indeed *necessary* for and *recommended* for this child. DCF discovered that there were valid prescriptions for Ketamine on-file and there was no indication that the Kowalskis had deviated, or even could deviate from the prescribed dosages. Thus, the hotline call was immediately "screened out" (i.e., closed) that same day. JHACH was notified that this investigation had been closed and there was no legal basis to prevent a patient requested discharge from JHACH.

31. The next day, October 8, 2016, as Maya continued to suffer and frustrated by JHACH's lack of empathy and knowledge of CRPS, Maya's parents became increasingly uncomfortable with the care and treatment Maya was receiving at JHACH and advised JHACH that they wished to have Maya discharged so that she could be treated elsewhere by specialists with personnel familiar with

treating CPRS.

32. Instead of complying with the family's wishes and in violation of its own internal policies and procedures, JHACH staff contacted Hospital Security and its Risk Management team, who jointly decided that any such discharge would be against medical advice. JHACH notified the Kowalskis that they would not be allowed to leave with Maya, and if they tried, JHACH's security team would stop them. JHACH then called Dr. Sally Smith and improperly granted Dr. Smith access to Maya's medical record in order to build a case of child abuse against the family. Outside of any open state investigation, JHACH and its physicians consulted with Dr. Smith regarding Maya's condition and recommended course of treatment.

33. On October 9, 2016, Maya's parents once again requested a transfer to Nemours Children's Hospital of Orlando, set up an appointment with Dr. Hanna, and notified JHACH that they wanted Maya to be discharged. JHACH denied the Kowalskis' request again and deflected the parents' concerns while hiding its true intentions from the Kowalski family, giving Dr. Smith time to invent a theory of child abuse.

34. On October 9, 2016, acting on the advice from Dr. Smith, JHACH, and specifically, Elaine Brown, a social worker employed by JHACH, called the DCF Child Abuse Hotline a *second time* and reported inflated, unsubstantiated claims regarding Beata's alleged medical child abuse of her daughter Maya. JHACH falsified its own internal medical records detailing what was purported to have been reported to DCF, as shown by a comparison of the actual DCF records (the hotline reports) outlining what allegations were relayed. In doing so, JHACH consulted with Dr. Smith and upon her recommendations as its agent, reported the Kowalskis in bad faith and with reckless disregard to Maya and her family to keep her at JHACH and under their control. Notably, JHACH and Dr. Smith had and have a demonstrated history of conspiring together and taking

similar action against other families in the past.

35. In this *second call* to the abuse hotline, JHACH ramped up the abuse allegations, this time making the following false claims:

- a. Mom had suspected mental issues;
- b. Mom was requesting Maya to be placed in a coma using pain medications;
- c. Mom got angry at Maya when she woke up and said she felt good and hungry;
- d. Mom was refusing Maya a donut when she got hungry;
- e. Mom was giving Maya unauthorized IV medications at home;
- f. Mom is believed to have mental issues; and
- g. Maya was not actually in pain.

36. These allegations were demonstrably and knowingly false. Dr. [redacted per agreement] of JHACH had prescribed hydrocortisone to be used in conjunction with Maya's Ketamine infusions as early as January 2016, JHACH had installed Maya's port, and then used the Ketamine infusions and administration of IV medications at home as a basis for their child abuse allegations.

37. The "donut incident" was an outright lie as Beata was not even in the hospital when Maya "awoke" and was not there for the supposed request for a "donut". Jack was present. Furthermore, three JHACH physicians, apparently not aware of the change in JHACH policy, had placed notes describing Maya's pain in the previous admission records. The claim that Beata was "believed to have mental issues" was made without a psychological evaluation of Beata; without a consultation with her husband Jack to determine if this was an accurate assessment; and without a review of Beata's medical history or JHACH's own internal notes concerning JHACH's past, positive interactions with Beata. The basis for the second call was clearly an intentional web of

outright lies, omissions, and exaggerations.

38. Following JHACH's second report of child abuse, Jack, and Beata (unaware of the charges) continued to request Maya's discharge, but JHACH justified their unreasonable denial of the parents' requests in part on the alleged severe effects of Ketamine withdrawal. On October 11, 2016, a JHACH nurse noted that they were weaning Maya off of Ketamine, and that if Maya was not properly weaned, Maya could suffer from "seizures, heart attacks, and even death." These unsupported concerns had and have zero basis in medical fact and are not supported in the literature. Not only does Ketamine have no physical withdrawal symptoms, as it is not an opioid and does not act on the opioid receptors in the brain, by this point Maya's last infusion was already four days past. The risk of cardiac arrest was simply invented by JHACH.

39. On that same day, October 11th, Dr. Smith called Dr. Kirkpatrick about Maya. He confirmed Maya had generalized Complex Regional Pain Syndrome and that the concerns made by the doctor reporting potential abuse (that Maya would recoil from the doctor's touch but was fine if sheets touched her) was a consistent reaction for that disorder. He also specifically cautioned Dr. Smith against accusing the family of criminal conduct like Munchausen by Proxy. Dr. Smith intentionally hid this information and ignored his advice, unbothered by her or JHACH's lack of CRPS expertise.

40. Making no mention of Dr. Hanna's conversation with JHACH that the Ketamine treatments were appropriate, nor her conversation with Dr. Kirkpatrick, Dr. Smith cobbled together a Preliminary Report in collaboration with JHACH, opining that Maya did not meet the diagnostic criteria for CRPS and that she was likely victim of Pediatric Condition Falsification Syndrome. JHACH fed these allegations, and the Preliminary Report served as the primary basis for Maya's placement into protective custody on the afternoon of October 13, 2016. A Dependency Shelter

Order was entered on October 14, 2016, which designated JHACH as the shelter location for Maya. In the week leading up to the entry of this Order, Defendants imprisoned Maya at JHACH with no legal justification. Throughout the underlying DCF proceedings that ensued, JHACH failed to inform the Court or DCF investigators that in the year prior to Maya's commitment, JHACH itself had repeatedly worked with Maya's CRPS specialists, independently "confirmed" her CRPS diagnosis, surgically installed a "port" to facilitate Maya's Ketamine infusions, and repeatedly provided prescriptions to aid in the fulfillment of her Ketamine and other CRPS treatments. After JHACH and its agent Dr. Smith intentionally withheld the diagnosis and course of treatment by Drs. Hanna, Wassenaar and Kirkpatrick despite being under oath to tell the *whole* truth, JHACH continued to withhold information from the Dependency Court even after it abandoned the diagnosis of MbP and diagnosed Maya with competing disorders, factitious disorder and conversion disorder, for which there is no need to isolate the child from her friends and family. JHACH and its agent Dr. Smith further withheld exonerating evidence of Maya's objective condition in the form of covert video surveillance taken within three weeks of her October admission – never presenting the video footage to the Dependency Court since it undermined their position and so-called diagnoses. Finally, JHACH intentionally covered up and withheld photographic evidence of Maya's prominent physical conditions including her feet turned in ("dystonia") and her distinctive CRPS lesions.

41. Upon learning that her child was to be taken from the family during the first court hearing on the matter, Beata suffered intense emotional grief and shock physically manifesting in a panic attack with extremely elevated heart rate, dizziness, tremors and finally fainted in the courtroom, striking her head on a wooden table and then the floor loud enough to be heard on audio recordings of the proceedings. Upon information and belief, these impacts caused a mild

concussion. She was transferred by ambulance to a local ER for evaluation. Beata was diagnosed with Acute Stress and Grief Reaction in the face of repeatedly being accused of child abuse and having her daughter taken away. Defendants, because they were standing in the courtroom at the time, were on notice of her condition. This notice is also reflected in the risk management notes of JHACH and in records received by Dr. Smith.

42. During Maya's forced sheltering at JHACH, she; her brother, Kyle; her mother, Beata; and her father, Jack suffered immensely at the hands of JHACH and its staff. The actions of JHACH, Dr. Smith and Ms. Bedy were grotesque, as Maya was deprived of her rights; imprisoned by JHACH; battered and sexually abused by JHACH social worker Ms. Bedy; and isolated from her friends and family. JHACH and Ms. Bedy routinely interfered with Maya's visitation rights, turning away family and friends, interrupting Court-ordered visits and calls, and spying on or eavesdropping on Maya's conversations with her family and attorneys. Unsurprisingly, Maya's mental health and physical condition deteriorated significantly over the course of the three months she was sheltered at JHACH. Even though JHACH was charged with looking out for the best interests of Maya while in their care, JHACH and its counsel repeatedly endeavored to keep Maya separated from her family and friends.

43. Jack and Beata struggled heroically to provide the love and support they could to Maya within the confines of the "sheltering" at JHACH. Jack and Beata struggled to explain the capricious actions of the Defendants and provide Kyle with a sense of normalcy and allow him to visit and support his beloved sister. They struggled to reconcile JHACH's abuse of corporate and State power that was tearing apart their family after the previous year and a half of exhausting, financially straining medical care for Maya. In doing so, they petitioned the Court and sought review of the sheltering order on numerous occasions and, at each instance, continued to face Dr.

Smith's, JHACH's, and its attorneys unrelenting and knowingly false accusations and misrepresentations, often made under oath. The resulting prolonged separation from their suffering daughter manifested in Beata's depression, fatigue, and overwhelming sense of hopelessness. Beata voiced this depression and fatigue to JHACH and Dr. Smith, which to any reasonably trained physician indicated a possibility of suicide or other self-harm. Despite specific and documented warning signs, JHACH and Dr. Smith continued a campaign of degradation and threats towards the Kowalskis, and specifically, Beata. Several doctors at JHACH knew that JHACH's concerted efforts to demean and intimidate Beata were driving her towards suicide, going so far as to predict her suicide.

44. Maya was released to her grieving father's custody on January 13, 2017, a week after her mother's death, and unbelievably, over JHACH's objections.

45. Upon agreement by the Dependency Court, on February 1, 2017, Court-appointed psychologist Dr. Tashawna Duncan's evaluation of Maya's case was filed. Upon an exhaustive review of Maya's medical records and interviews with numerous treating physicians, educators and family members, Dr. Duncan found and concluded, in part, that:

a. "Maya has experienced excruciating pain resulting from an organic condition beyond her control (and beyond the control of her mother). Maya's parents sought and followed the advice of experienced medical providers who are specialists in treating her diagnosed medical condition, CRPS."

b. "[Maya's] parents sought treatment for the pain she was experiencing and requested that Ketamine be given in high doses. Hospital staff refused and, pointing to the 'unusual' treatment requested and the fact that Maya's mother was a nurse, accused Maya's mother of Factitious Disorder by Proxy."

c. “No less than three medical doctors have diagnosed [Maya’s] medical condition, and no less than three mental health professionals have evaluated Maya, none of whom have confirmed a diagnosis of Factitious Disorder.”

d. “The hospital [JHACH] would only discharge Maya to another facility with a (false, unsupported and misleading) mental health diagnosis.”

e. “An alternative diagnosis proposed by the hospital, Conversion Disorder, is similarly contraindicated.”

f. Maya “also voiced significant frustration that her contact with her father and brother was limited and she was not permitted to see her priest, other family members, and friends. Maya added that the hospital staff even makes it difficult for her to contact her attorney.”

g. “[P]rior to Maya being removed from the home there was no evidence that Maya’s mother, Beata, had ever suffered from mental health problems.”

46. Dr. Duncan exposed JHACH’s and Dr. Smith’s fictions, and on the same date Dr. Duncan’s report was released, DCF filed a Notice of Voluntary Dismissal to terminate the original proceeding and requested an Order releasing Maya from Shelter Status. That request was granted on April 20, 2017.

47. Maya continues to receive treatment for her CRPS, but now without the care and support of her loving mother Beata, and she continues to receive mental health counseling to cope with the tragic loss of her mother, and trauma from her prolonged isolation and mistreatment by JHACH and Bedy. Her last physical contact with her mother was before her imprisonment began in early October and JHACH’s intimidation and harassment of her mother permanently deprived her of her mother’s love and support.

48. Even at the bitter end, JHACH interfered with Maya's ability to grieve her mother's tragic death, making it difficult to see her priest and keeping her for another week to mourn in isolation. The family remains in mortal fear of health care providers. Jack remains hesitant to seek care as he fears his children will be taken. Jack, Maya, and Kyle do not seek medical care, except upon the most extreme circumstances, and only with the most trusted health care providers.

49. Throughout, Defendants acted in bad faith, with malicious purpose and/or in a manner exhibiting wanton and willful disregard of human rights and safety. JHACH's conduct was outrageous, inhumane, and beyond the bounds of human decency.

50. Plaintiffs specify herein that they are not alleging any failure of Defendants to provide services agreed to under a Court-ordered case plan (noting one was never even put in place).

COUNT I

FALSE REPORTING OF CHILD ABUSE UNDER FLA. STAT. § 39.206 AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL AND DR. SALLY SMITH

Summary Judgment Granted In Favor of Defendants By Order Granting Summary Judgment On Count I Dated January 31, 2022 [DIN 2242]

COUNT II

FALSE IMPRISONMENT AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL

51. This Count II is brought by Plaintiff, Jack Kowalski, individually, and on behalf of his minor daughter, Maya Kowalski.

52. Plaintiffs re-aver Paragraphs 1 – 50.

53. Following Maya's admission to JHACH, a disagreement arose between Maya's parents, Jack, and Beata, and JHACH and its medical staff as to the proper course of treatment for Maya's previously diagnosed CRPS.

54. Following their initial disagreement with JHACH, and based upon the

recommendation of other providers, Jack, and Beata, who were vastly more familiar with their daughter's diagnosed CRPS, requested Maya's discharge to have her transferred to a facility that would willingly provide the proper care.

55. JHACH refused to discharge Maya, utilizing subterfuge, and dissembling statements, ultimately depriving Maya of her liberty and depriving Jack and Beata of their right to determine the proper facility to care for their sick child.

56. As JHACH held Maya against her and her parents' wills, JHACH repeatedly requested DCF investigate Maya's case. DCF quickly confirmed Maya's CRPS diagnosis and Ketamine treatment plan and found no basis to suspect Jack or Beata of child abuse. DCF closed its first investigation and reported the closure to JHACH on October 7th. DCF informed JHACH that Maya had been diagnosed with CRPS by another treating physician with an expertise in CRPS and that her treating specialist(s) were unified in recommending the Ketamine infusion treatments.

57. Without legal authority, having already reported their suspicions to DCF and having been told the investigation was closed, JHACH continued to hold Maya against her and her parents' wills, thus imprisoning her in the JHACH facility. JHACH refused to comply with Jack and Beata's repeated requests to have Maya discharged and thwarted their attempts to have Maya transferred to a more appropriate medical facility.

58. While Maya continued to be imprisoned, and in the absence of any open DCF investigation, personnel at JHACH called Dr. Sally Smith, its Director of Child Abuse, to discuss the closed investigation, and Dr. Smith advised them to modify and/or inflate the allegations to ensure the DCF investigation would be opened based on a *second report*.

59. Acting on this advice, JHACH made a *second call* to the DCF Child Abuse Hotline on October 9, 2016. The charges and allegations made by JHACH acting upon Smith's

involvement and advice in the *second call* were wildly inflated and diametrically opposed to the facts relayed in the *first call* to DCF.

60. Over the course of the next week, JHACH continued to refuse to release Maya absent any authority by way of court order, and Maya remained in the custody of JHACH against her and her parents' will and without any legal or medical justification (the only justification being misdiagnosis of psychological issues of Maya, Beata, and Jack instead of confirming JHACH's prior diagnosis of CRPS). After October 13, 2016, at which time Maya was taken into Protective Custody by DCF based upon the medical malpractice and false, inflated allegations of JHACH, JHACH failed to inform authorities of conclusive evidence of Maya's CRPS and lack of any basis for diagnosing damaging, dangerous psychological disorders on the part of Beata and Maya as plead *infra*. At no time during Maya's admission did Jack and Beata pose an "imminent danger" to Maya as they had cared for her for her entire life without incident, they were previously known to JHACH doctors to be loving and caring parents, and Maya exhibited exactly zero objective evidence of mistreatment insofar as signs of physical injury and/or lab results supporting allegations of overdose or overmedication. In any event, the Kowalskis were not requesting to remove Maya from care, but rather a transfer to another, more competent facility.

61. Given the absence of imminent danger to Maya, along with DCF's initial investigation confirming Maya's CRPS diagnosis and prescribed treatments and given JHACH's unfamiliarity with and lack of expertise concerning CRPS, JHACH's imprisonment of Maya was unreasonable, unwarranted and without excuse or justification legally, medically, or morally.

62. From October 7, 2016, to October 13, 2016, JHACH acted without legal authority and against its own policies and procedures and held Maya against her will and her parents' will, imprisoning her in a hospital room without access to friends, family, school, her priest or the comforts of

her home. JHACH placed her under the care of doctors, nurses and social workers who did not understand CRPS and/or its proper treatment. JHACH doctors and staff, at the direction of JHACH management, including the Risk Management Department, refused to provide the prescribed course of treatment that provided Maya with relief of pain. As reflected in its own internal records, JHACH knew that there was no documented DCF hold in their records and further knew after a court order was issued that it had in its possession medical evidence of video, photos, charting, outside records and statements from qualified specialists that, if JHACH doctors changed their wrongful and baseless diagnosis would exonerate Beata and to a high probability cause the release of Maya. During this imprisonment, Maya was subjected to extremely painful procedures and unnecessary psychological “care” and manipulation as pled herein.

63. Even after the Dependency Court sheltered Maya at JHACH, the Court ordered that Jack and Beata retain medical decision-making authority over their daughter’s care. At a minimum, JHACH was required to truthfully and candidly consult with the Kowalskis and obtain *specific* consent for Maya’s medical care.

64. Despite this obligation to contact Maya’s parents for medical consent, JHACH and Smith devised a plan to conduct covert video surveillance of Maya without her consent or that of her parents. For approximately 48 hours between October 18th and 20th, Maya was locked in a darkened room (typically used for EEG video studies) without Jack and Beata’s consent and without justification except for subterfuge and further victimization of Maya. Nurses and social workers placed her commode (toilet) just out-of-reach of Maya (an act of abuse and harassment based upon her history of incontinence at times during her stay), with the intent of forcing her to get up and walk over to it if she didn’t want to foul herself due to their belief that she and her family had created a “charade” of her inability to walk (again, misdiagnosing muscle atrophy as

paralysis). Unaware of this “setup”, Maya was forced to ring for nurse’s assistance and was drug to the commode, her atrophied legs and feet dragging on the floor. Maya was unlawfully detained without the ability to leave as she could not walk under her own power, and even if she was, she and her family were informed that “Security would be called” if she attempted to leave. She was intentionally deprived of her liberty to leave that “EEG Room” without consent and/or authority of Maya, her parents, her guardian ad litem, her attorney, DCF, and/or the Court and without any justification.

65. The text messages between the JHACH attending physician and Smith during this time period show that Smith was directing Maya’s “care”, and that JHACH covertly videotaped Maya to catch her in a “charade”. When the video surveillance revealed that Maya was, in fact, suffering from severe CRPS and needed assistance to even get to the commode, JHACH never mentioned the exculpatory evidence captured on video to the Dependency Court or anyone else outside of the JHACH-Smith conspiracy. Had they, to a reasonable probability the legal reasons arising from medical justifications they had offered would have disappeared.

66. The 48-hour confinement of Maya for the purpose of covert video surveillance was an unlawful deprivation of Maya’s liberty, against Maya’s will, and was conducted without legal authority.

67. JHACH went further in demonstrating its proclivity for depriving Maya of her liberty. In early January 2017, as further detailed in Plaintiff’s Count for Battery, JHACH and its agents and employees, including Bedy and the Risk Management Department, unlawfully detained Maya, moved her to yet another isolated room, stripped her of clothing, pinned her down and held her against her will for a period of at least an hour while they photographed her. This occurred in the twenty-four hours before her only opportunity to appear before the Dependency Court. The

unlawful and cruel photographs were taken at the direction of JHACH's Risk Management Committee depict Maya being held down against her will in her training bra and panties/shorts and clearly frightened and in pain.

68. JHACH's social worker, Catherine Bedy, admitted in her deposition taken in this case that there was no lawful purpose for the photographs; that the photos were directed to be taken by Risk Management; and that they were taken without the consent or knowledge of Maya's parents, Jack, and Beata.

69. The semi-nude photographs of Maya were taken in a back room at the Hospital, over Maya's screaming objections, with the assistance of a nurse that JHACH and Bedy have failed to identify (but who is pictured).

70. The photography incident was an unlawful deprivation of Maya's liberty, against Maya's will, and was conducted without legal authority.

71. All of the false imprisonments of Maya before and during her sheltering at JHACH were unreasonable, unwarranted and without any legal justification or such justification was obtained through the malpractice of knowingly misdiagnosing and then hiding exculpatory evidence such as the 48-hour video and the photos of Maya's CRPS lesions (which were there immediately before the Bedy photos and immediately after, as documented by Jack Kowalski's previously produced photos and so were likely discarded by Risk Management if they were ever printed).

72. As a direct and proximate result of these false imprisonments at the hands of JHACH and its agents, Maya, suffered the loss of her family's care, comfort and support; mental pain, anguish and embarrassment concerning false accusations of child abuse and the resulting separation; fear and internal family distress caused by Maya's absence and the capriciousness of

JHACH's actions; the interruption of family events, holidays, routines, rituals and outings together; and Maya suffered physical pain from being held to a hospital bed without proper medical care, familial support, and assistance. This stress exacerbated Maya's CRPS in duration, intensity and frequency of relapse then and in the future.

73. Jack suffered special damages and Maya suffered the loss of her parents' care, comfort, and support during the period of tribulation for the family while Maya was wrongfully and intentionally imprisoned. Maya suffered further as she reasonably believed, based upon threats from Dr. Smith, JHACH, and Ms. Bedy, that she would never be returned to the family and/or that their ability to see and interact with each other would be permanently, severely curtailed, and totally controlled by JHACH and its actions in provoking future imprisonments.

74. The actions of Defendant Johns Hopkins All Children's Hospital, Inc. were willful, wanton, and malicious and evidenced a callous and intentional disregard for the life, health and well-being of their patient Maya Kowalski, which actions and/or inactions as plead herein caused or substantially contributed to grievous physical, emotional, and psychological injury to Maya Kowalski.

75. WHEREFORE, Plaintiff Maya Kowalski, by and through Jack Kowalski as her parent and guardian, demands judgment against Defendant, Johns Hopkins All Children's Hospital, as follows:

a. For general damages, including bodily injury; physical suffering; physical inconvenience and discomfort; mental anguish; mental and emotional suffering from isolation, embarrassment, humiliation, and intimidation; mental anguish caused by the fight of flight impulse and concerns over her safety; violations of personal dignity; deprivation of liberty; feelings of helplessness and powerlessness; the effects and

manifestations of PTSD; and further disgrace and injury to Maya's mental and emotional well-being;

b. For special damages including, but not limited to, medical and psychological care in the past and future; expenses in the past and in the future including treatment and medications for anxiety, depression, PTSD, and other associated psychological conditions including an increased risk of dying early from exacerbated CRPS; probable increase in frequency, duration and intensity of relapse of CRPS episodes; probable loss of income in the future as the disease progresses into her late 30's and beyond; and legal and other public relations expenses in the future to reclaim her dignity and extract herself from any public records or medical records maintained by the Defendants or any health care provider that include unauthorized and non-consensual video recordings and/or photographs of Maya in intimate, private, and traumatic situations at the hands of the Defendants and further assistance as she ages for which a life care plan will likely be necessary; for attorney fees necessitated to defend herself from allegations and consequences from the accusations of mental illness likely to follow her the rest of her life;

c. For punitive damages based on the actions and outcome described in this Court's Order Granting Leave to Allege Punitive Damages, the factual underpinnings are incorporated here by reference; and

d. For such other relief as this Honorable Court deems just and proper.

76. WHEREFORE, Plaintiff Jack Kowalski demands judgment against Defendant, Johns Hopkins All Children's Hospital, Inc., as follows:

a. For special damages including, but not limited to, medical and legal

expenses incurred in effecting or attempting to effect a cure of Maya's sheltering at Johns Hopkins All Children's Hospital; medical and psychological expenses until Maya reaches the age of 18; and

b. For such other relief as this Honorable Court deems just and proper.

COUNT III
ABUSE OF PROCESS
AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL

Summary Judgment Granted In Favor Of Defendants By Order Granting In Part Defendant Johns Hopkins All Children's Hospital's Amended Partial Summary Judgment As To Count III Dated January 7, 2022 [DIN 2170]

COUNT IV
CIVIL CONSPIRACY
AGAINST DR. SALLY SMITH, JOHNS HOPKINS ALL CHILDREN'S HOSPITAL,
AND SUNCOAST CENTER

Summary Judgment Granted In Favor Of Defendants By Omnibus Order Regarding Motions Directed Towards "Chapter 39 Immunity" Dated January 14, 2022 [DIN 2242]

COUNT V
BATTERY
AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL
AND CATHERINE BEDY

77. This Count V is brought by Plaintiff, Jack Kowalski, individually, and on behalf of his minor daughter, Maya Kowalski.

78. Plaintiffs re-aver Paragraphs 1 – 50.

79. During Maya's admission and subsequent imprisonment at JHACH, licensed social worker and JHACH/JHHSC employee, Ms. Bedy, battered Maya by engaging in harmful and/or offensive contact without implied or actual consent. The intentional contact with Maya included, but is not limited to, the touching of Maya around the face and body through the actions of unwanted hugging, patting, stroking, slapping, caressing, and kissing. Maya was physically stripped of her clothing down to her shorts and training bra and photos were taken against her will of her partially nude body.

80. This unwanted touching was indicative of a normalization a/k/a “grooming” process of child abusers, with Ms. Bedy attempting to substitute herself for Beata as a mother figure, and/or preparing Maya for future, more intrusive physical contact. In fact, Ms. Bedy directly told Maya that this was the reason for the unwanted touching.

81. On more than one occasion, Ms. Bedy sat Maya on her lap with only a hospital gown between Maya and Ms. Bedy’s body. On more than one occasion, Ms. Bedy slapped Maya on her legs with full knowledge that Maya suffered from CRPS and experienced extreme pain in her legs. On several occasions, Ms. Bedy held and caressed Maya’s hand in an inappropriate manner. And, on at least two occasions, Ms. Bedy held Maya against her will and attempted to kiss her.

82. Based upon her direct supervision of Maya, Maya’s medical records, nurses’ notes, and other hospital records, Ms. Bedy either knew or should have known that Maya despised JHACH and most its staff for holding her prisoner, abusing her mother, and refusing to treat her CRPS. Ms. Bedy therefore knew that her advances and the above-referenced contact were unwanted, harmful, offensive, and frankly terrifying to Maya.

83. During the act of imprisoning Maya as afore pled at paragraphs 64 through 70, the allegations of which are re-asserted herein, Bedy and other social workers or nurses physically grabbed, held, pushed, maneuvered, or otherwise touched Maya Kowalski while transporting her into the “EEG Room” against her will and without legal or medical justification or Maya or her parents implied or actual consent. In fact, Beata and Jack did not know Maya was to be physically manhandled into this room and Maya was manhandled under the false pretense that this was for medical treatment (an EEG) when in fact it was to bolster JHACH’s rationale for keeping Maya under their control so they could continue to invoice the Kowalskis directly and through their

health insurer, Aetna.

84. Furthermore, on each and every occasion, the above-referenced contact was unwanted, offensive, and harmful to Maya. The above-referenced contact was neither made known to, nor consented to, by Maya's parents, Jack and Beata.

85. None of the aforementioned actions were authorized, required or justified due to medical necessity or by Fla. Stat. Chapter 39 or any other law, statute, or regulation. None of the aforementioned actions were requested by, consented to or agreed to by Maya, Jack or Beata. To this day, Maya remains traumatized by the actions of Bedy and the other involved nurses and social workers or whomever pushed her into that room.

86. As a direct and proximate result of Ms. Bedy's actions, Maya was injured in that she suffered and continues to suffer depression, anxiety, loss of capacity to enjoy life and her mental and emotional state is such that she has developed phobias of medical care, doctors, nurses, social workers, and other healthcare providers. Maya suffered emotional anguish knowing that she was being mistreated and contending with unwanted advances and painful contact, and further suffered from feelings of helplessness of not being able to receive the care and support of her family as she struggled with CRPS and was isolated from her family. These injuries and damages will continue for the duration of Maya's life.

87. The actions of Defendants Johns Hopkins All Children's Hospital, Inc. and Catherine Bedy were willful, wanton and malicious and evidenced a callous and intentional disregard for the life, health and well-being of their patient Maya Kowalski, which actions and/or inactions as plead herein caused or substantially contributed to grievous physical, emotional, and psychological injury to Maya Kowalski as stated in the Court's Order Granting Leave to Amend to Allege Punitive Damages the contents of which are incorporated as if fully re-pled herein.

88. WHEREFORE, Plaintiff Maya Kowalski, by and through Jack Kowalski as her parent and guardian, demands judgment against Defendants, Johns Hopkins All Children's Hospital and Catherine Bedy, as follows:

a. For general damages in the past and continuing into the future including bodily injury; physical suffering; physical inconvenience and discomfort; mental and emotional suffering from embarrassment, humiliation, and intimidation; the effects and manifestations of PTSD and associated psychological conditions; loss of dignity; deprivation of liberty; and further disgrace and injury to the Plaintiff's feelings and reputation;

b. For special damages including, but not limited to, medical and psychological care in the past and future; medical care and expenses in the past and in the future including treatment and medications for anxiety, depression, PTSD, and other associated psychological conditions; probable loss of income in the future; legal expenses in the future to extract herself from any public records or medical records that indicate that Maya had or has psychiatric problems and that her parents were under suspicion of child abuse or those that contain records of Maya's battery and intimate, private, and otherwise traumatic photographs; for attorney fees to defend herself in the future from accusations or reference to mental health issues; and for further care as she ages from exacerbation of her CRPS known as a "Life Care Plan";

c. For punitive damages; and

d. For such other relief as this Honorable Court deems just and proper.

89. WHEREFORE, Plaintiff Jack Kowalski demands judgment against Defendants, Johns Hopkins All Children's Hospital and Catherine Bedy, as follows:

- a. For special damages including, but not limited to, medical and legal expenses incurred as a result of Maya's battery;
- b. For punitive damages; and
- c. For such other relief as this Honorable Court deems just and proper.

COUNT VIA.

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL
AND CATHERINE BEDY
ON BEHALF OF THE ESTATE OF BEATA KOWALSKI

90. This is a Survival action brought by Jack Kowalski on behalf of the Estate of Beata Kowalski.

91. Plaintiffs re-aver paragraphs 1 – 50.

92. [Intentionally deleted].

93. The wrongful acts and negligence of Defendants would have entitled Beata Kowalski to maintain an action for Negligent Infliction of Emotional Distress had she survived.

94. At all times relevant to this Count, Smith acted as an agent of JHACH, as pled *infra*.

95. During Maya's sheltering at JHACH, Maya's CRPS symptoms worsened: her lesions reappeared, her legs atrophied, she regressed and became wheelchair-bound, and she suffered physical injury and debilitating pain.

96. Upon learning that her daughter would be taken away from the family with no contact, Beata collapsed on the courtroom floor and was immediately transferred to a local hospital for evaluation. Beata was then diagnosed with Acute Stress Reaction and Grief reaction in the face of repeatedly being accused of child abuse and having her daughter taken away. There is no relationship more acknowledged and preserved under law than that between parent and child, and the relationship between Beata and Maya was both tested and strengthened as Beata cared for

Maya as she suffered with CRPS. Beata's core maternal instincts, devotion to her daughter, and role as protector were heightened to an extreme level when the Defendants' isolated Maya and harmed her with Beata's knowledge that not only was her little girl being harmed but that she as a mother could do absolutely nothing to protect her child. This placed Beata Kowalski, as well as Jack Kowalski in an emotionally and physically untenable circumstance with few if any means of relieving the unrelenting worry, anger, frustration, terror, and seething rage at Bedy, Smith and the rest of the JHACH "Team" that was by lack of reasonable care systematically driving them beyond the bounds of all tolerable human existence. In short, the actions of the Defendants and their agents drove both parents, but especially Beata as she was also accused of abusing her beloved daughter, inexorably towards the most extreme of human behavior. For Jack, that was shutting down emotionally and psychologically. For Beata, it was doing the one thing she firmly believed could save her little girl: taking herself completely out of the picture by killing herself.

97. Further, after witnessing Beata faint in court after Maya was removed from her mother's custody for alleged child abuse, the Defendants, acting both in concert and separately, engaged in a months-long, systematic effort to intimidate, ridicule, and demean Beata, eventually pushing her to the conclusion that taking herself out of the picture would give the JHACH people, Smith included, no one to "shoot at" to keep Maya under Bedy and other JHACH people's control.

98. The Defendants' abhorrent actions included: berating Beata in person, in public, and over the phone; accusing Beata of abusing her beloved, suffering daughter; telling Beata she had very little chance of freeing her daughter and she would likely not live with her again; refusing even the simplest supervised contact between Beata and Maya, (including forbidding or impeding correspondence through notes, letters, phone calls, or FaceTime calls); publicly alleging to others, including her husband, Jack, and Beata's brother directly and through minions like Bedy, that

Beata was mentally unstable and unfit to raise Maya or Kyle and had all the signs of Munchausen-by-Proxy; and continually reinforcing in Beata's mind that she was likely to never see her little girl again and that the daughter she had loved and cared for over the past decade was now permanently in state custody. With Maya in their "care", the Defendants deprived Maya of the comfort of her family and her religion by interfering with visits of Maya's dad and brother despite Court visitation orders; interfering with calls and FaceTime calls with Maya's mother despite Court visitation orders; removing and keeping away from Maya her religious artifacts; and even denying Maya's ability to visit with their family priest.

99. During this period from October 2016 through January 2017, Beata remained as involved as she could possibly have been with Maya's "care", even though she was often interrupted by Bedy or other JHACH doctors, nurses and other employees blocking her access to Maya altogether and in violation of multiple court orders.

100. After Defendants' unrelenting intimidation, demeaning, and ridicule of Beata for three months, while interfering with Beata's court-ordered ability to communicate with her daughter, JHACH and Bedy subjected Maya to cruel and unusual punishment in the form of compelled semi-nude photography in early January *just before* Beata was to have the opportunity to see her beloved daughter for the first time in months.

101. On that day in January 2017, when Maya was allowed into the dependency court, Beata was shocked to see Maya's "physical deconditioning and worsening of her CRPS" injuries caused to Maya by the Defendants. Beata was visibly and physically distraught on seeing that her daughter was now wheelchair-bound and in worse shape than she had been when she first arrived at JHACH three months prior. Prior to this both Maya and Beta knew CRPS could be and often was fatal. In fact, they had a young friend die already from the disease and both knew that without

the correct and specific care, Maya had a probability of dying. Even worse, Beata was told directly by JHACH/JHHSC employees as well people she knew in the chat rooms for CRPS caregivers, that there was virtually no chance JHACH/JHHSC would let Maya go free.

102. Less than 48 hours later, Beata took her life due to the emotional distress inflicted by the Defendants, suffering such severe stress and emotional upheaval from Defendants' prolonged intimidation and harassment campaign that she acted upon an uncontrollable impulse to end her own life. Beata wrote in her suicide note that she was compelled to take her own life because "[JH]ACH, DCF have destroyed my daughter physically and mentally." Additionally, her note states, "I'm sorry but I can no longer take the pain of being away from Maya and being treated like a criminal." This statement clearly demonstrates her suicide was the result of an uncontrollable impulse rather than a calculated decision.

103. Beata suffered multiple discernable physical injuries, up to and including her suicide, each caused by the psychological trauma inflicted by the Defendants' abhorrent actions. These included, in addition to an impact of her head loud enough to be heard over the court recording, constant and ever-increasing stomach and intestinal conditions and nausea, where she dry-heaved, then vomited; debilitating and ever-increasing headaches, confusion, panic attacks, constant, free-floating anxiety, inability to concentrate so badly she couldn't carry on a conversation and aches and pains from muscle spasms based on stress. These were obvious to a health care provider and in fact, Beata complained to Drs. Sally Smith, Teppa-Sanchez and other JHACH doctors she came in contact with there that she was having these extreme symptoms.

104. The gravity of the emotional injuries inflicted on Beata and the foreseeability of Beata's suicide cannot be overstated. From the first meeting with the ER doctors on duty the afternoon and evening of the 7th where she specifically told Dr. Teppa-Sanchez and others that she

had considered ending her own life even before JHACH's efforts to drive her mad, through episode after episode where she reacted with tears, anger, expressed frustration and epic confusion over what was happening to her daughter and her, the "Team" at JHACH without question knew that Beata was on the knife-edge of reality and that suicide or some other drastic reaction was not just possible but probable.

105. Significantly, the Defendants and the involved Johns Hopkins' physicians recognized the emotional harm their actions were inflicting on Beata, going so far as to **predict** Beata's suicide. These conversations were memorialized in text messages between Drs. Vose and Teppa-Sanchez: "Learned today that ketamine girl's mom committed suicide yesterday. Sorry to say my prediction was correct." Yet, Defendants continued to harass and intimidate Beata, even increasing the pressure by "driving a wedge" between Beata and Jack. Bedy set up and coached up Sarasota County Sheriff Detective Graham to confront Jack and provided the room for the "hotboxing" of him, when Graham asked untruthful and misleading questions to Jack always implying Beata was intentionally harming Maya. Jack began suspecting Beata. This in turn further isolated Beata and gave her no one to talk to and let out her emotions, and no one left to bring her back from the edge. By the end, Beata was totally isolated and had no emotional or psychological defenses left and the Defendants and all of them knew this and had expressed actual knowledge that it was a medical certainty Beata Kowalski was going to do severe damage to herself or possibly others.

106. Regardless of any duty to take action to reduce the medically certain and foreseeable result, Defendants, and each of them, were under a cognizable legal duty of reasonable care to refrain from the following:

- (a) directly confronting Beata with contentious and insulting words and actions such as

cutting off communications with her child with no legal, moral or ethical basis for doing so;

(b) taking steps to exacerbate the situation by taking unwarranted and illegal actions to provoke Beata by “sicking” a Sheriff’s detective on her through her husband and allowing the use of the hospital facility to do so and making sure Jack knew they were working together by making sure that he saw the detective and Bedy or other personnel together coming off the elevator;

(c) by insisting at every turn to anyone who would listen that Beata was trying to poison her child with ketamine, specifically by telling members of their church, their priest and friends of theirs the reasons why they couldn’t bring the little girl baked goods, food, holy water, communion wafers or anything else edible. They knew this would get back to Beata;

(d) by Bedy and others poisoning the relationship by informing Maya that her mother had mental issues to cause Beata to know her little girl might not trust her or that her relationship with Maya might never be the same;

(e) by keeping Bedy right there as totally involved in Maya’s daily routine when it was obvious Jack and Beata despised her and Maya hated her worse, and ensuring it was Bedy who was most involved in “monitoring” Beata’s intimate mother-daughter conversations with her daughter and making sure Beata knew it was Bedy who was literally “opening the mail”;

(f) by ensuring Beata saw or knew that Bedy was shepherding Maya around and keeping Bedy involved as “tormentor-in-chief” when the Kowalskis had already brought to JHACH’s attention that Bedy was an arrested child abuser herself;

(g) making false derogatory statements about Beata between and among staff and/or third persons that created a culture of animosity, suspicion and loathing that reached Jack and Maya and eventually Beata Kowalski;

(h) making recommendations to third parties including anyone visiting the hospital that any physical comfort exchanged between mother and daughter would be detrimental to the child's well-being; and

(j) creating suspicion about Beata Kowalski by comments to school officials.

107. In addition to JHACH/JHHSC's employees foreseeing that their actions were compelling Beata to commit suicide, JHACH was in complete control of the risk they created as the risk of Beata committing suicide could have been eliminated at any time if JHACH had provided the exculpatory evidence (covert EEG surveillance video, records from other physicians, its own records from 2015 and early 2016, photos of Maya's lesions) and told the truth about her pain and/or repudiating it once they knew it was not Munchausen's, instead of adopting every "diagnosis" and unsupported, libelous and unprofessional comment by Dr. Sally Smith and disclosed to the Court that its psychologist, Dr. Katzenstein, had *never corroborated Smith's initial suspicions of MbP* and had instead *diagnosed Maya with Psychological Factors Affecting Other Medical Conditions*, a diagnosis that expressly recognized Maya's underlying CRPS. JHACH was in control, as no one but it had access to Maya it controlled the necessary testimony and disclosures to the Dependency Court so that M.K. would be immediately released back into the custody of Beata and Jack. If JHACH had done any of this, even if JHACH's admissions of its wrongdoing and initial suspicions having been disproven *led only to a path to reunification*, Beata would have recovered and would still be a wife to Jack and mother to Maya and Kyle as they approach high school graduation.

108. The actions of JHACH, Bedy and Smith pushed Beata to the point of having an uncontrollable impulse to end her life. These Defendants created and fostered the conditions to which Beata ultimately succumbed. Defendants' actions were beyond the scope of any acceptable human behavior.

109. The Defendants' actions directly and proximately caused psychological and physical injury to Maya and Beata, severe humiliation, emotional pain and suffering, and an overwhelming sense of hopelessness.

110. WHEREFORE, Plaintiff, Jack Kowalski on behalf of the Estate of Beata, demands judgment against Defendants, Johns Hopkins All Children's Hospital, Inc., and Catherine Bedy for Negligent Infliction of Emotional Distress as follows:

a. For direct injury to Beata Kowalski pursuant to Fla. Stat §§ 46.021 and 768.19, for all Survival damages available for the Negligent Infliction of Emotional Distress and the physical injury(ies) of and damages arising therefrom up and until the time of Beata's death by suicide on or about January 7, 2017;

b. For general damages, including bodily injury; physical suffering; physical inconvenience and discomfort; mental agony; mental and emotional suffering and distress; the severing of Beata's relationship with her daughter; diminishment in feelings of self-worth and self-esteem; embarrassment; humiliation; feelings of helplessness and powerlessness; deprivation of liberty; and other disgrace and injury to the Plaintiffs' mental and emotional health and reputations;

c. For special damages including, but not limited to, medical and psychological care in the past; expenses in the past including treatment and medications for anxiety, depression, PTSD, and other associated psychological conditions; probable

loss of income in the future; the loss of net accumulations from the income and benefits of Beata Kowalski from the date of the beginning of the war upon her to her death on or about January 8th, 2017; and legal expenses to defend against accusations of Beata being a child abuser; and

d. For any other relief to which the Estate of Beata Kowalski is entitled under this Count and/or which this Honorable Court allows.

COUNT VI.B.

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL
AND CATHERINE BEDY
ON BEHALF OF THE ESTATE OF BEATA KOWALSKI AND HER
SURVIVORS, JACK KOWALSKI, AND HIS MINOR CHILDREN, MAYA
AND KYLE KOWALSKI**

Motion to Dismiss Granted with Prejudice in Favor of Defendants by Order Granting In Part and Denying In Part Multiple Motions to Dismiss and Strike Various Counts Within the Seventh Amended Complaint [DIN 2802]

COUNT VI.C.

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL
AND CATHERINE BEDY
ON BEHALF OF JACK KOWALSKI, INDIVIDUALLY,
AND ON BEHALF OF HIS MINOR CHILD, MAYA KOWALSKI**

111. This is an action brought by Plaintiffs, Jack Kowalski, individually, and on behalf of his minor child, Maya Kowalski.

112. Plaintiffs re-aver paragraphs 1 – 50, and incorporate and re-aver paragraphs 94 – 109.

113. Jack suffered physical injuries and physical manifestations of his psychological trauma during the period of Maya's admission at JHACH beginning October 7, 2021 and continuing through the present day. These physical injuries and manifestations of psychological

trauma included and include difficulty eating, loss of appetite, dry heaving, inability to breathe or shallowness of breath, headaches, weight loss, anxiety, and insomnia.

114. Jack's physical injuries and physical manifestations were caused by his psychological trauma.

115. Jack was directly involved in the events causing negligent injury to Maya, and in fact, was the only parent allowed to visit Maya and observe the injuries she was suffering at the hands of JHACH, including: sexual battery (by Bedy); unwanted touching (by Bedy and other social workers, nurses and JHACH physicians); denial of care, medications and care for her CRPS (and the resulting persistent lesions); worsening of her CRPS; atrophy of her legs; and demeaning behavior towards Maya and ridicule of Maya as a psych patient who was faking the whole thing (by Bedy and other social workers, nurses and JHACH physicians). On more than one occasion, Jack was witness to Maya's agony and suffering when JHACH social workers and nurses dismissed Maya's complaints and insisted on treating her and touching her in ways that were excruciatingly painful due to Maya's CRPS. On other occasions, Jack witnessed Maya's helplessness and hopelessness when JHACH and Bedy interfered with the family's visitation rights and Maya was denied attendance at holiday festivals. Jack observed actions on the part of Bedy and other nurses and social workers that, in any other context, would be considered battery on his child, without the corresponding ability to protect her and stop the harmful acts upon her.

116. Jack unquestionably had a close personal relationship with his daughter Maya.

117. Maya suffered physical injuries and physical manifestations of her psychological trauma during the period of Maya's admission at JHACH beginning October 7, 2021 and continuing through the present day. These physical injuries and manifestations of psychological trauma included aggravation of her CRPS, weight loss, worsening lesions, atrophy of her legs,

anxiety, insomnia, and nightmares.

118. Maya's physical injuries and physical manifestations were caused, at least in part, by her psychological trauma.

119. Maya was directly involved in the events causing negligent injury to her mother and father, including: interference with Court-ordered visitation rights and attempts to visit her by Jack and Kyle; interference with innocuous phone calls and FaceTime calls with her mother; and unrelenting ridicule and harassment of her mother by Bedy and other JHACH social workers, nurses, and doctors. Maya suffered crushing psychological trauma in witnessing how her mother and father were treated by Bedy and JHACH – seeing her mother reduced to tears and treated as a criminal just for trying to have normal conversations with and provide some comfort to her suffering daughter. Maya suffered further psychological trauma in seeing her father and brother treated as second-class citizens who were repeatedly turned away or visits cut short based on autocratic pronouncements by Bedy and other social workers and nurses that the Court-ordered visitations were impermissible.

120. Even at 10 years old, Maya could sense that her mother was losing all hope, that she was descending into a deep depression after being crucified and demeaned by Bedy and JHACH for months on end. The phone calls and recordings from the time demonstrate that Maya was thrust into the role of trying to comfort her mother due to Bedy's and JHACH's perverse attacks on Beata. This role reversal of mother and daughter, precipitated by JHACH's and Bedy's negligent actions, led directly to debilitating psychological trauma in Maya.

121. Maya unquestionably had a close personal relationship with her mother and father.

122. Defendants' actions as aforepleaded directly and proximately caused damages to these individual Plaintiffs.

123. WHEREFORE, Plaintiffs, Jack Kowalski, individually, and on behalf of his minor daughter, Maya Kowalski, demand judgment against Defendants, Johns Hopkins All Children's Hospital and Catherine Bedy, as follows:

- a. For general damages, including bodily injury; physical suffering; physical inconvenience and discomfort; mental agony; mental and emotional suffering and distress; the severing of Beata's relationship with her daughter; diminishment in feelings of self-worth and self-esteem; embarrassment; humiliation; feelings of helplessness and powerlessness; deprivation of liberty; and other disgrace and injury to the Plaintiffs' mental and emotional health and reputations;
- b. For special damages including, but not limited to, medical and psychological care in the past; expenses in the past including treatment and medications for anxiety, depression, PTSD, and other associated psychological conditions; probable loss of income in the future; the loss of net accumulations from the income and benefits of Beata Kowalski from the date of the beginning of the war upon her to her death on or about January 8th, 2017; and legal expenses to defend against accusations of Beata being a child abuser; and
- c. For any other relief to which Jack Kowalski, individually, and on behalf of his minor child, Maya Kowalski, is entitled under this Count and/or which this Honorable Court allows.

COUNT VII.A.

MALICIOUS PROSECUTION (SURVIVAL ACTION)

**AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL ON BEHALF OF THE
ESTATE OF BEATA KOWALSKI**

**Summary Judgment Granted In Favor Of Defendants By Omnibus Order Regarding
Motions Directed Towards "Chapter 39 Immunity" Dated January 14, 2022 [DIN 2199]**

Re-Asserted and Re-Pled in Seventh Amended Complaint

Motion to Dismiss Granted with Prejudice in Favor of Defendant by Order Granting In Part and Denying In Part Multiple Motions to Dismiss and Strike Various Counts Within the Seventh Amended Complaint Dated January 17, 2023 [DIN 2802]

COUNT VII.B.

MALICIOUS PROSECUTION (WRONGFUL DEATH ACTION)

AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL ON BEHALF OF THE ESTATE OF BEATA KOWALSKI AND HER SURVIVORS, JACK KOWALSKI, AND HIS MINOR CHILDREN, MAYA AND KYLE KOWALSKI

Summary Judgment Granted In Favor Of Defendants By Omnibus Order Regarding Motions Directed Towards "Chapter 39 Immunity" Dated January 14, 2022 [DIN 2199]

Re-Asserted and Re-Pled in Seventh Amended Complaint

Motion to Dismiss Granted with Prejudice in Favor of Defendant by Order Granting In Part and Denying In Part Multiple Motions to Dismiss and Strike Various Counts Within the Seventh Amended Complaint Dated January 17, 2023 [DIN 2802]

COUNT VII.C.

MALICIOUS PROSECUTION

AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL ON BEHALF OF JACK KOWALSKI, INDIVIDUALLY, AND HIS MINOR CHILD, MAYA KOWALSKI

Summary Judgment Granted In Favor Of Defendants By Omnibus Order Regarding Motions Directed Towards "Chapter 39 Immunity" Dated January 14, 2022 [DIN 2199]

Re-Asserted and Re-Pled in Seventh Amended Complaint

Motion to Dismiss Granted with Prejudice in Favor of Defendant by Order Granting In Part and Denying In Part Multiple Motions to Dismiss and Strike Various Counts Within the Seventh Amended Complaint Dated January 17, 2023 [DIN 2802]

COUNT VIII

MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL FOR THE CARE OF MAYA KOWALSKI

124. Plaintiff, Jack Kowalski on behalf of his minor daughter Maya Kowalski, re-avers

Paragraphs 1 – 50.

125. Plaintiffs have pled JHACH's Negligent Training, Supervision and Ratification of Its Involved Doctors and Healthcare Providers in Count XIV. Count XIV is pled in the alternative to Count VIII, and Plaintiffs do not believe the Counts are duplicative. Should the Court rule that Count XIV is duplicative of Count VIII and should be stricken for that reason as Defendant JHACH has argued, Plaintiffs adopt and incorporate the allegations set forth in Count XIV in this Count VIII.

126. Pursuant to Fla. Stat. § 766.102(1), upon Maya's admission JHACH owed Maya a duty of care.

127. JHACH breached their duty of care by terminating Maya's CRPS treatments, by allowing its doctors to act without the requisite knowledge to properly diagnose or treat CRPS, and by acting in opposition to Maya's outpatient providers' diagnoses and treatment regimens. Dr. Malik, who admittedly lacks expertise in CRPS, was one of the first JHACH doctors to see Maya upon her October 7th admission: Despite his lack of expertise, Dr. Malik opined that "[he] and the other doctors don't **feel** the child meets the criteria for RSD [CRPS]", disregarding JHACH's previous treatment, its knowledge of her CRPS, and the informed and careful diagnoses of Maya's outside treating physicians – Drs. Kirkpatrick, Cantu, Hanna, Barr and Spiegel.

128. While Maya was under its care, JHACH failed to develop a coherent treatment plan for Maya, with its doctors and staff consistently denying Maya's CRPS diagnosis and instead diagnosing Maya with a variety of psychiatric conditions, none of which were treated. Even when advised by pain physicians at other medical institutions that JHACH's approach and diagnoses were inconsistent and mutually exclusive, JHACH failed to correct its approach to Maya's care. In early January, as JHACH was hellbent on painting Maya as a psychiatric patient while still maintaining to the Dependency Court that she was the victim of MbP, a physician at Kennedy Krieger grew frustrated with JHACH's Risk

Management team and physicians during a call and advised JHACH that “Munchausen and conversion are competing disorders and JHACH needs to pick one.” That this did not occur to JHACH, and they persisted in their unsound approach is a breach of the highest order.

129. JHACH terminated Maya’s CRPS treatment regimen that had placed her on a path to recovery, and offered no suitable alternative, all the while refusing appropriate treatment and denying Maya’s and her parents’ wishes to continue her CRPS treatments.

130. JHACH failed to coordinate care and provide the necessary resources for Maya. Even if one were to accept JHACH’s so-called experts’ view that the preferred CRPS treatment regimen entailed aggressive physical therapy and psychotherapy at the exclusion or minimization of pharmacologic interventions, JHACH did not provide those services and treatments. Other than a few brief visits from JHACH’s psychologists, Maya was not provided with regular psychotherapy or mental health counseling. JHACH’s provision of physical therapy was similarly limited. When physicians recommended different approaches or disagreed with the unhinged diagnosis of MbP by Smith and the uninformed opinion of Nurse Ashley that Maya exhibited “textbook Munchausen”, those recommendations were ignored and never explored.

131. Dr. James Lewis, a colleague of Smith’s, was brought in at the direction of the Dependency Court to conduct a neuropsychological assessment of Maya. In his report, Dr. Lewis recommended that a differential diagnosis of Maya’s symptoms be completed, and that a pediatric neurologist be consulted to evaluate Maya to determine if she had RSD [CRPS].

132. Dr. Lewis’ directive, issued via his report on October 20, 2016, goes to the heart of this case, so is restated verbatim here:

The diagnosis of ICD-10/DSM-5: Factitious Disorder by Proxy is a working diagnosis, but this needs to be confirmed by a Pediatric Neurologist who would work with the Attending and Consulting All Children’s Medical Staff to definitively rule out whether this child **actually ever had** Reflex

Sympathetic Dystrophy or a variant of Complex Regional Pain Syndrome.

133. JHACH has admitted that it never followed up on Dr. Lewis' recommendations. No pediatric neurologist was ever consulted by JHACH during Maya's stay. No pediatric neurologist ever evaluated Maya while she was at JHACH. The Attending and Consulting JHACH medical staff simply relied on their feelings (see Dr. Malik's statement above). JHACH simply ignored the court-ordered evaluation and Dr. Lewis' findings and directives for follow-up care, meaning that an appropriate differential diagnosis was never performed by a Pediatric Neurologist (i.e., a qualified CRPS expert) at any time during Maya's three-month admission. This is per se medical malpractice.

134. JHACH's breaches of care also include submitting Maya to unnecessary medical procedures including an EKG of her heart during the first 24-48 hours of care when there was absolutely no need indicated; a fake EEG and instead placing Maya in a darkened room for 48 hours to try to prove she was "faking" her disease; stripping Maya of her clothing down to her training bra and short shorts and pinning her down to take (selective) photos of her to try to show she did not have the distinctive CRPS lesions; subjecting her to tortuous physical therapy without any pain medication despite it being contraindicated for CRPS that had progressed to Maya's stage; subjecting Maya to the worst kind of psychological "care" by constantly insisting to her and those around her that she was lying about her pain and symptoms and that all of her symptoms were in her mind and that she should ignore all diagnosis and treatment she had received to that point; otherwise providing hardly any psychological care during her three-month sheltering; failing to consult not only other treating physicians but also the Hospital's own history going back at least two years prior; failing to follow-up with any pediatric psychological or psychiatric consult; failing to follow up with any pediatric neurological consult to determine if Maya did not have the

diagnosis of CRPS made by three different experts in the field previously.

135. The above directly and proximately caused Maya to suffer unnecessarily, as her CRPS worsened and was not properly treated during the time of Maya's admission from October 7, 2016, to January 13, 2017.

136. The undersigned hereby certifies that Plaintiffs' counsel has satisfied all conditions precedent to filing suit pursuant to Fla. Stat. Chapter 766 and has made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the claimant by each named defendant.

137. WHEREFORE, Plaintiff Jack Kowalski, on behalf of his minor daughter Maya Kowalski, demands judgment against Defendant, Johns Hopkins All Children's Hospital, as follows:

a. For general damages including, but not limited to, bodily injury; physical suffering; physical inconvenience and discomfort; the pain and agony caused by JHACH's failure to provide necessary and appropriate CRPS treatment; regression in her physical abilities and the resulting prolonged recovery from JHACH's maltreatment; mental anguish; the profound suffering and other negative effects of isolation and prolonged separation from her brother Kyle and her loving, devoted parents, Jack and Beata; mental and emotional suffering from embarrassment, humiliation, deprivation of liberty; mental and emotional suffering from the unshakable memories and recognition that she will never be able to be in her mother's presence again and that the opportunity was taken from her by JHACH by blaming first her mother Beata and then Maya herself for her organic medical affliction and unnecessarily prolonging her admission; disgrace and injury to the Maya's mental and

emotional health and reputation; the inability to seek appropriate medical care in the past and future due to inescapable fear of doctors and hospitals; the removal of the CRPS treatment regimen as a viable treatment option moving forward and the resulting relapses and CRPS symptoms that have recurred since her discharge; and the likelihood that her CRPS will flare up as she matures and the resulting pain and suffering caused by being unable to pursue appropriate treatment due to risk of future legal and medical confrontations;

b. For special damages including, but not limited to, psychological care in the past and future; medical care and expenses in the past and in the future including treatment and medications for anxiety, depression, PTSD and related psychological diagnoses; probable loss of income in the future; legal expenses in the past to attempt to extract themselves from Maya's imprisonment and in the future to extract themselves from any public or medical records that indicate that Maya had or has psychiatric problems and Jack was under suspicion of child abuse; loss of income and profits from a rental property the family was forced to sell to afford the legal fees to free Maya; and

c. For such other relief as this Honorable Court deems just and proper.

COUNT IX

**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766
AGAINST DR. SALLY SMITH AND SUNCOAST CENTER
FOR THE CARE OF MAYA KOWALSKI**

Dismissed Upon Settlement with Defendants Smith and Suncoast Center

COUNT X

**INTENTIONAL INTERFERENCE WITH
THE CUSTODIAL PARENT-CHILD RELATIONSHIP
BY JOHNS HOPKINS ALL CHILDREN'S HOSPITAL, SUNCOAST CENTER,
AND DR. SALLY SMITH**

Summary Judgment Granted In Favor Of Defendants By Omnibus Order Regarding Motions Directed Towards “Chapter 39 Immunity” Dated January 14, 2022 [DIN 2199]

COUNT XLA.

**NEGLIGENT HIRING, RETENTION, SUPERVISION, AND RATIFICATION
OF CATHERINE Bedy
AGAINST JOHNS HOPKINS ALL CHILDREN’S HOSPITAL ON BEHALF OF THE
ESTATE OF BEATA KOWALSKI**

138. This is a Survival action brought by Jack Kowalski on behalf of the Estate of Beata Kowalski.

139. Plaintiffs re-aver Paragraphs 1 – 50.

140. [Intentionally deleted].

141. The wrongful acts and negligence of Defendants would have entitled Beata Kowalski to maintain an action for Negligent Hiring, Retention, Supervision, and Ratification of Catherine Bedy against Johns Hopkins All Children’s Hospital and Johns Hopkins Hospital Systems (hereinafter in this count simply referred to as “JHACH”) had she survived.

142. JHACH hired Bedy in 2012, when it knew or should have known that she was unfit to carry out the job responsibilities which she was hired to perform. The evidence of Bedy’s unfitness for her position at JHACH included but was not limited to repeated complaints (if JHACH had bothered to check) from past employers at former Defendant Suncoast. Upon information and belief, Bedy was known to have temper issues and an inability to resolve interpersonal disputes.

143. JHACH either knew or failed to adequately perform a pre-employment investigation so that it also would know that Ms. Bedy was previously arrested approximately five years earlier, in 2007 for child abuse after tackling, then placing her knees on a young boy’s chest until he stated “I can’t breathe”, and thereafter pled to a felonious assault, making her completely

unfit to work with children at JHACH, or anywhere. This was nine (9) years prior to Bedy's assault and repeated battery upon Maya Kowalski.

144. Jack and Beata Kowalski discovered Bedy's prior arrest for physical violence and child abuse during the time that Bedy was charged as the primary social worker with overall supervision of Maya's daily activities at JHACH. The Kowalskis' discovery was made on December 16, 2016, and Jack and Beata immediately brought it to JHACH's attention through discussions in the hallway with various nurses and doctors over their concern that Bedy had a history of violence. They asked that Bedy be reassigned and no longer oversee Maya's care. JHACH did nothing.

145. Once JHACH/JHHSC became aware of Bedy's prior arrest for child abuse (if it was not aware of the arrest prior to December 2016 as the Hospital has maintained), it should have honored the Kowalskis' request and removed Bedy from Maya's primary care team, and either terminated her, or, if it chose to risk the lives of other patients, more closely supervised her work with children or prevented her from working with the Hospital's minor patients in an unsupervised fashion at any time.

146. Even before the Kowalskis brought Bedy's arrest record to JHACH's attention and asked for reassignment to another social worker and before she could carry out more attacks on the Kowalskis, specifically, the horrific attack on Maya during the few days before the January hearing when she and another (still unidentified) JHACH employee brutally stripped and photographed Maya, JHACH had additional notice on November 9, 2016 that Bedy was unfit for employment as a social worker and should not be allowed unsupervised contact with children. Sometime in early November, Bedy threatened a co-worker and suggested physical combat was the way to resolve the situation by stating, "Do you want to take this outside?". The counseling

report in Ms. Bedy's record connected to this incident indicates that this was her *third time* being counseled for unprofessional behavior while a JHACH employee. Yet, JHACH continued to employ Ms. Bedy and allow her intimate, private contact with Maya, a vulnerable 10-year-old girl. Bedy continuously groomed Maya by stating that she would be Maya's mother. Maya by this point was in unrelenting, extreme pain physically, and had not had an unmonitored, un-interrupted conversation with her parents, brother, priest, or friends for over a month. She was confined to a wheelchair and unable to escape any physical, mental, or socially abusive situation. Bedy used Maya's incapacity to fondle, stroke, and pet Maya, at times setting Maya on her lap against Maya's will. On more than one occasion, Bedy sat Maya on her lap while Maya was in bedwear and kissed her on the forehead, cheek, and hand.

147. As a direct and proximate result of JHACH's refusal to reassign Bedy away from Maya, Bedy (predictably) physically battered and abused Maya during multiple intimate encounters in the Hospital chapel and elsewhere, and forcefully took semi-nude photos of Maya in early January 2017.

148. These incidents of sexual and physical abuse were foreseeable to JHACH given Bedy's prior arrest record and her open threats of physical violence with another employee and history of physical violence. But moreover, given Bedy's history, any series of exams and interviews necessary for a job involving intimate contact with children would have revealed an atavistic nature and predisposition to use aggression to resolve interpersonal conflict.

149. JHACH owed a duty to Plaintiffs to provide a competent, non-abusive, non-threatening and properly screened social worker to supervise Maya's care.

150. JHACH breached its duty to Plaintiffs by:

- a. Hiring Ms. Bedy when it knew or should have known she had a history of

abusive behavior and/or a predilection to violence and aggression;

b. Failing to adequately perform a pre-employment investigation on Ms. Bedy before hiring her to ensure she was fit to perform her job responsibilities and work with children;

c. Failing to closely supervise Ms. Bedy while she was working with children, including Maya, including failing to even follow up with the basic supervision required in its reports on Bedy following the report of its own employee against her, and even after they knew she had a history of child abuse;

d. Failing to reassign Bedy to a role where she would no longer be allowed to interact with children privately and/or failing to terminate Bedy's employment when it became aware of her history of child abuse and even after the abuse of Maya became known thus ratifying and agreeing with her actions;

e. Failing to reassign Bedy to keep her from working with children at JHACH when it knew or should have known she was unfit to work with children and was prone to initiating physical violence thus approving and validating its position with regard to her handling of Maya;

f. Failing to provide corrective training when Bedy attempted to fight one of her co-workers during the time of Maya's admission in November 2016 and by failing to do so ratifying her actions; and

g. Failing to reassign Bedy away from Maya at the Kowalskis' direct request and allowing for further sexual battery and physical violence against Maya, thus proving that their intent was to keep Bedy doing these horrific things to Maya.

151. JHACH's breaches as set out above directly and proximately caused damage to

Plaintiffs. At all times, JHACH possessed the ability to reassign Bedy away from Maya to prevent Bedy from coming into further contact with Maya.

152. Maya, as a sheltered 10-year-old (and then 11-year-old) child at the Hospital, and under the charge of Bedy as the primary social worker overseeing Maya's daily activities, lived captive in a zone of risk that was reasonably foreseeable to JHACH.

153. As Bedy's employer, JHACH had the ability to forestall harm to Maya due to the employer-employee relationship and position of authority over Bedy and knew that Bedy presented a clear and present danger to Maya's safety and personal dignity.

154. WHEREFORE, Plaintiff Jack Kowalski on behalf of the Estate of Beata Kowalski, demands judgment against Defendant, Johns Hopkins All Children's Hospital, as follows:

a. For direct injury to Beata Kowalski pursuant to Fla. Stat §§ 46.021 and 768.19, for all Survival damages available for the Negligent Hiring, Retention, Supervision, and Ratification of Catherine Bedy and the physical injury(ies) of and damages arising therefrom up and until the time of Beata's death by suicide on or about January 7, 2017;

b. For general damages, including bodily injury; sexual insult; discomfort; physical suffering; mental anguish; emotional and mental suffering from embarrassment, humiliation, intimidation and feelings of helplessness and powerlessness; Maya's sense of the feelings of regret that Jack and Beata felt as they were unable to protect her from Bedy's behavior; deprivation of liberty; disgrace and injury to the Plaintiffs' mental and emotional health; the effects and manifestations of PTSD; the lingering effects and psychological complications naturally caused by being sexually violated and physically battered; loss of dignity, and diminution in self-worth and self-esteem

associated with being victimized by a sexual and physical predator as a child;

c. For special damages including, but not limited to, psychological and medical care in the past and future; expenses in the past and in the future including treatment and medications for anxiety, depression, PTSD, diminished earning capacity and other associated psychological conditions; and probable loss of income in the future; and

d. For such other relief as this Honorable Court deems just and proper.

COUNT XLB.

NEGLIGENT HIRING, RETENTION, SUPERVISION, AND RATIFICATION
OF CATHERINE Bedy
AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL ON BEHALF OF THE
ESTATE OF BEATA KOWALSKI AND HER SURVIVORS, JACK KOWALSKI, AND
HIS MINOR CHILDREN, MAYA AND KYLE KOWALSKI

155. This is a Wrongful Death action brought by Jack Kowalski as the personal representative of the Estate of Beata Kowalski.

156. Plaintiffs re-aver paragraphs 1 – 50, and incorporate and re-aver paragraphs 142-153.

157. The Defendants committed tortious acts as averred in the paragraphs incorporated above.

158. The Defendants' tortious conduct caused the death of Beata Kowalski.

159. Based on Defendants' tortious conduct, and Beata's resulting death, this cause of action accrued.

160. Damages for Beata's wrongful death are recoverable by Beata's personal representative.

161. WHEREFORE, Plaintiffs, Jack Kowalski, Maya Kowalski, and Kyle Kowalski, as survivors, and Jack Kowalski, on behalf of the Estate of Beata, demand judgment against

Defendant, Johns Hopkins All Children's Hospital, Inc. and JHHSC for Negligent Hiring, Retention, Supervision, and Ratification of Catherine Bedy as follows:

a. For direct injury to Beata Kowalski through Jack Kowalski as personal representative of the Estate of Beata Kowalski;

b. For general damages, including: bodily injury; sexual insult; discomfort; physical suffering; mental anguish; emotional and mental suffering from embarrassment, humiliation, intimidation and feelings of helplessness and powerlessness; Maya's sense of the feelings of regret that Jack and Beata felt as they were unable to protect her from Bedy's behavior; deprivation of liberty; disgrace and injury to the Plaintiffs' mental and emotional health; the effects and manifestations of PTSD; the lingering effects and psychological complications naturally caused by being sexually violated and physically battered; loss of dignity, and diminution in self-worth and self-esteem associated with being victimized by a sexual and physical predator as a child;

c. For special damages including, but not limited to, psychological and medical care in the past and future; expenses in the past and in the future including treatment and medications for anxiety, depression, PTSD, diminished earning capacity and other associated psychological conditions; and probable loss of income in the future;

d. For all damages available to the survivors and the Estate of Beata pursuant to Florida's Wrongful Death Statute, and specifically Fla. Stat. § 768.21, including but not limited to: lost support and services, with interest, and future loss of support and services; Jack's loss of his wife Beata's companionship and for mental pain and

suffering from the date of Beata's injuries; Jack's future loss of support and services from Beata's death on January 8, 2017 to his life expectancy of 82 years, reduced to present value and with pre-judgment interest on the past losses; financial losses to Jack include the amount of the Beata's future net income based on her average salary of \$61,500 (2015) plus reasonable increases through to the expected end of her work life at age 65, less reasonable living expenses, available for *pro rata* distribution to him, and the replacement value of Beata's services around the house and in their lives through his expected life, both reduced to present value; Maya and Kyle's loss of their mother's care, comfort and support, lost parental companionship, instruction and guidance and mental pain and suffering from the date of their mother Beata's injuries; medical and funeral expenses; and loss of the prospective net accumulations of Beata's estate; and further

e. For any other relief the Estate of Beata Kowalski and her survivors are entitled to under this Count and/or which this Honorable Court allows.

COUNT XL.C

NEGLIGENT HIRING, RETENTION, SUPERVISION, AND RATIFICATION
OF CATHERINE BEDY
AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL ON BEHALF OF JACK
KOWALSKI, INDIVIDUALLY, AND ON BEHALF OF HIS MINOR DAUGHTER,
MAYA

162. Plaintiff, Jack Kowalski, individually, and on behalf of his minor daughter, Maya Kowalski, realleges and re-avers paragraphs 1-50 and paragraphs 142-153.

163. Defendants' actions as afore-pled directly and proximately caused damages to these individual Plaintiffs.

164. WHEREFORE, Plaintiff, Jack Kowalski, individually, and on behalf of his minor

daughter, Maya Kowalski, demand judgment against Defendants, Catherine Bedy and Johns Hopkins All Children's Hospital, as follows:

- a. For general damages, including: bodily injury; physical suffering; physical inconvenience and discomfort; mental anguish; mental and emotional suffering from isolation, embarrassment, humiliation, and intimidation; mental anguish caused by the fight of flight impulse and concerns over her safety; violations of personal dignity; deprivation of liberty; feelings of helplessness and powerlessness; the effects and manifestations of PTSD; and further disgrace and injury to Maya's mental and emotional well-being;
- b. For special damages including, but not limited to, medical and psychological care in the past and future; expenses in the past and in the future including treatment and medications for anxiety, depression, PTSD, and other associated psychological conditions including an increased risk of dying early from exacerbated CRPS; probable increase in frequency, duration and intensity of relapse of CRPS episodes; probable loss of income in the future as the disease progresses into her late 30's and beyond; and legal and other public relations expenses in the future to reclaim her dignity and extract herself from any public records or medical records maintained by the Defendants or any health care provider that include unauthorized and non-consensual video recordings and/or photographs of Maya in intimate, private, and traumatic situations at the hands of the Defendants and further assistance as she ages for which a life care plan will likely be necessary; for attorney fees necessitated to defend herself from allegations and consequences from the accusations of mental illness likely to follow her the rest of her life; and

c. For such other relief as this Honorable Court deems just and proper.

COUNT XII.A

**NEGLIGENT HIRING, RETENTION, SUPERVISION, AND RATIFICATION
OF DR. SALLY SMITH
AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL ON BEHALF OF THE
ESTATE OF BEATA KOWALSKI**

**Summary Judgment Granted In Favor Of Defendants By Omnibus Order Regarding
Motions Directed Towards "Chapter 39 Immunity" Dated January 14, 2022 [DIN 2199]**

Re-Asserted and Re-Pled in Seventh Amended Complaint

**Motion to Dismiss Granted with Prejudice in Favor of Defendant by Order Granting In
Part and Denying In Part Multiple Motions to Dismiss and Strike Various Counts Within
the Seventh Amended Complaint Dated January 17, 2023 [DIN 2802]**

COUNT XII.B

**NEGLIGENT HIRING, RETENTION, SUPERVISION, AND RATIFICATION
OF DR. SALLY SMITH
AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL ON BEHALF OF THE
ESTATE OF BEATA KOWALSKI AND HER SURVIVORS, JACK KOWALSKI, AND
HIS MINOR CHILDREN, MAYA AND KYLE KOWALSKI**

**Summary Judgment Granted In Favor Of Defendants By Omnibus Order Regarding
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Re-Asserted and Re-Pled in Seventh Amended Complaint

**Motion to Dismiss Granted with Prejudice in Favor of Defendants by Order
Granting In Part and Denying In Part Multiple Motions to Dismiss and Strike
Various Counts Within the Seventh Amended Complaint Dated January 17,
2023 [DIN 2802]**

COUNT XII.C.

**NEGLIGENT HIRING, RETENTION, SUPERVISION, AND RATIFICATION
OF DR. SALLY SMITH
AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL ON BEHALF OF JACK
KOWALSKI, INDIVIDUALLY, AND HIS MINOR CHILD, MAYA**

**Summary Judgment Granted In Favor Of Defendants By Omnibus Order Regarding
Motions Directed Towards "Chapter 39 Immunity" Dated January 14, 2022 [DIN 2199]**

Re-Asserted and Re-Pled in Seventh Amended Complaint

Motion to Dismiss Granted with Prejudice in Favor of Defendants by Order

**Granting In Part and Denying In Part Multiple Motions to Dismiss and Strike
Various Counts Within the Seventh Amended Complaint Dated January 17,
2023 [DIN 2802]**

COUNT XIII

**NEGLIGENT HIRING, RETENTION, SUPERVISION, AND RATIFICATION
OF DR. SALLY SMITH AGAINST SUNCOAST CENTER**

Dismissed Upon Settlement with Defendants Smith and Suncoast Center

COUNT XIV.A

**NEGLIGENT TRAINING, SUPERVISION AND RATIFICATION OF ITS INVOLVED
DOCTORS AND HEALTHCARE PROVIDERS AGAINST JOHNS HOPKINS ALL
CHILDREN'S HOSPITAL ON BEHALF OF
THE ESTATE OF BEATA KOWALSKI**

165. This is a Survival action brought by Jack Kowalski on behalf of the Estate of Beata Kowalski.

166. Plaintiffs re-aver Paragraphs 1 – 50.

167. [Intentionally deleted].

168. The wrongful acts and negligence of Defendant would have entitled Beata Kowalski to maintain an action for Negligent Training, Supervision, and Ratification of its Involved Doctors and Healthcare Providers against Johns Hopkins All Children's Hospital had she survived.

169. JHACH had a duty to provide physicians and staff that could provide a competent, appropriate assessment and treatment plan for Maya and the Kowalski family.

170. In line with Fla. Stat. § 766.110, JHACH had a duty to effect comprehensive risk management and ensure the competence of its medical staff and personnel through careful selection, training, supervision, and review, and is liable for failing to exercise proper care in these duties.

171. JHACH had a further duty to supervise Maya's treatment and ensure that her care was properly coordinated by the involved doctors and healthcare providers.

172. JHACH breached these duties as follows.

173. JHACH failed to put in place adequate policies and procedures to train its physicians, healthcare providers, and other employees/agents so that they could properly assess Maya's CRPS, coordinate Maya's care, and appropriately interact with the Kowalski family both before and subsequent to Maya's sheltering. To the extent JHACH had any policies or procedures in place to prevent these lapses, JHACH failed to ensure its employees and agents complied with its policies and procedures, thus allowing for inconsistent, arbitrary treatment of Maya and her family by the involved doctors and staff.

174. On more than one occasion, Dependency Court orders were disregarded, intentionally or otherwise, by JHACH physicians and staff and Maya's father, brother, other relatives, and friends were improperly turned away despite court orders allowing for the visitations. Many of these nurses, employees, and agents of JHACH failed to identify themselves to the family members and friends who were turned away, and their names were not recorded by the would-be visitors. Other times, unidentified medical staff and social workers from the hospital would interrupt Maya's court-ordered visitation and phone calls with her family and friends and instruct that such conversations and/or visits were not allowed despite express language to the contrary in Dependency Court orders.

175. Many of these violations were in direct contravention of the "Patient & family rights and responsibilities" of Johns Hopkins Medicine and JHACH that were provided to the Kowalskis. Among the rights set out by JHACH and violated by its physicians, healthcare providers, and other agents:

- To know who is in charge of approving and doing your procedures or treatments. Dr. Paola Dees failed to even disclose that Maya was to be monitored by video surveillance for approximately 48 hours from October 18th – 20th, and in further violation of the so-called right of the Kowalskis, at no time did Dr. Dees notify the Kowalskis that Dr. Sally Smith was approving and directing Maya’s treatment. Similarly, and as a second demonstration of JHACH’s failure to train and/or supervise its physicians on the Kowalskis’ rights, Drs. Dennis Hart and Dr. Dees failed to advise the Kowalskis that Smith was part of the JHACH primary care team recommending that Maya’s port be surgically removed in late October 2016.

- To know the name and professional status of your caregiver. The nurses and attending physicians present in Maya’s room and the immediate vicinity when Dr. Sally Smith first visited Maya and her father Jack did not ensure that the Kowalskis understood Smith’s professional status and her overlapping and problematic roles: Medical Director of the Child Protection Team, Child Abuse Director at JHACH, and member of multiple executive committees at JHACH. Jack was left with the false impression that Smith was simply another doctor at JHACH, and no one at JHACH took it upon themselves to explain Smith’s conflicting roles.

- To be told by your health care provider of your condition, plan of care, risks, benefits, and outcome. To be told of medical choices for care or treatment. To refuse treatment, except that written by law, and to be told of the effects of your choice. To take part in decisions about the plan of your health care. In violation of all four of these rights, none of the involved physicians or EEG/video techs monitoring Maya’s 48 hours of confinement ever advised the Kowalskis of JHACH’s plan of care, and they were

never advised of the outcome of the video study. Because they were not told, the Kowalskis were denied the opportunity to refuse treatment. JHACH and its physicians also concealed from the Kowalskis that they were seeking to discharge Maya to Nemours under a psychiatric diagnosis, and falsely represented to Beata that Maya was being considered for transfer as a CRPS patient. In concealing their intentions, these providers and social workers failed to advise the Kowalskis of their true diagnosis and plan of care.

176. As a result of JHACH's failure to properly train and supervise its physicians, Maya's treatments and diagnoses during her admission were inconsistent, contra- indicated, and at times arbitrary. JHACH failed to train its physicians, including Dr. Alexis Major, that YouTube was not an approved and credible source of medical knowledge and was not to be used to decide upon the appropriate treatment regimen for a patient. Dr. Major testified that YouTube was the primary source of her information on CRPS and the appropriate treatments.

177. As further evidence of JHACH's inconsistent treatment and failure to supervise its physicians, JHACH provided affidavits to the Dependency Court from two involved doctors – Drs. Dees and Young - only one week apart in November 2016. The affidavits provided by these physicians contained contradictory diagnoses and treatment plans. On November 2nd, Dr. Dees testified in her Affidavit that Maya suffered from “Complex Reflex Sympathetic Dystrophy” (CRPS). One week later on November 9th, Dr. Young testified in her Affidavit that Maya suffered from “Bilateral lower extremity atrophy with conversion and factitious disorder” as well as “mild persistent asthma” and “IgG deficiency” and excluded CRPS from her alleged diagnosis. Same hospital.

178. Further complicating the issue, Dr. Major later testified on December 29, 2016, that

Maya did not have CRPS and suffered from conversion disorder. The disorder was all JHACH's, which failed to supervise its physicians and coordinate care so that its physicians arrived at a consensus diagnosis and treatment plan.

179. JHACH became aware or should have become aware of the inconsistent treatments being provided to Maya and her family and should have coordinated a coherent case plan but failed to do so.

180. In not taking corrective action to ensure Maya and her family received competent, appropriate treatment and care, JHACH ratified the inconsistent and inexplicable actions of its involved doctors and healthcare providers.

181. JHACH ratified the actions of, or in the alternative, failed to supervise its physicians when Dr. Kristen Danielson and other physicians discussed the idea of taking photographs of Maya ahead of her January 6, 2017, court appearance. At Risk Management's direction, Dr. Danielson's suggestion was put into action and carried out by Bedy to horrific effect.

182. Moreover, JHACH failed to train and supervise its physicians on how to appropriately respond to a patient's family member's known suicide risk. When Drs. Vose and Teppa-Sanchez recognized and even predicted Beata's impending suicide, neither took any action to prevent the expected, tragic outcome. The medical literature on both CRPS and parents separated from their children due to child abuse allegations or other exigent circumstances is rife with recommendations that the parents be provided counseling and that the involved healthcare providers be alert to the known suicide risk of the parents. JHACH did not train its physicians and staff appropriately and did not supervise them closely enough to know that members of the Hospital's medical staff were predicting Beata's suicide. At a minimum, JHACH should have made its physicians aware of appropriate resources to minimize the suffering of parents and

patients.

183. Alternatively, to the extent Drs. Vose's and Teppa-Sanchez's prediction of Beata's suicide was discussed amongst the JHACH physicians and staff and still nothing done to prevent Beata's imminent suicide, JHACH ratified the conduct of its physicians and staff.

184. The above-described failures of JHACH to properly train and supervise its physicians, other healthcare providers, and employees and agents involved in Maya's "care", coupled with JHACH's ratification of these acts/omissions, proximately caused damage to the Plaintiffs.

185. WHEREFORE, Plaintiff, Jack Kowalski on behalf of the Estate of Beata Kowalski, demands judgment against Defendant, Johns Hopkins All Children's Hospital, as follows:

a. For general damages, including bodily injury; physical suffering; physical inconvenience and discomfort; feelings of helplessness; mental agony; mental suffering and emotional distress from embarrassment, humiliation, and intimidation; deprivation of liberty; disgrace and injury to the Plaintiffs' mental and emotional health and reputations; and inability to seek appropriate medical care due to an ingrained fear of doctors and hospitals due to Defendants' treatment;

b. For special damages including, but not limited to, psychological care in the past and future; medical care and expenses in the past and in the future including medications for anxiety, depression, PTSD, and other associated psychological conditions resulting from Defendants' negligent conduct; probable loss of income in the future; legal expenses in the past to attempt to extract themselves from Defendants' abusive and inhumane sheltering of Maya; and in the future to reconcile or address any public records or medical records that indicate that Maya, Beata and/or Jack had or

have psychiatric problems and Jack and/or Beata was identified as a suspected or confirmed child abuser;

c. For all damages available to the survivors and the Estate of Beata pursuant to Florida's Wrongful Death Statute, and specifically Fla. Stat. § 768.21, including but not limited to: lost support and services, with interest, and future loss of support and services; Jack's loss of his wife Beata's companionship and for mental pain and suffering from the date of Beata's injuries; Maya and Kyle's lost parental companionship, instruction and guidance and mental pain and suffering from the date of their mother Beata's injuries; medical and funeral expenses; and loss of the prospective net accumulations of Beata's estate;

d. For any other relief to which the Estate of Beata Kowalski is entitled under this Count and/or which this Honorable Court allows.

COUNT XIV.B

NEGLIGENT TRAINING, SUPERVISION AND RATIFICATION OF ITS INVOLVED DOCTORS AND HEALTHCARE PROVIDERS AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL ON BEHALF OF THE ESTATE OF BEATA KOWALSKI AND HER SURVIVORS, JACK KOWALSKI, AND HIS MINOR CHILDREN, MAYA AND KYLE KOWALSKI

186. This is a Wrongful Death action brought by Jack Kowalski as the personal representative of the Estate of Beata Kowalski.

187. Plaintiffs re-aver paragraphs 1 – 50, and incorporate and re-aver paragraphs 169-184.

188. The Defendant committed tortious acts as averred in the paragraphs incorporated above.

189. The Defendant's tortious conduct caused the death of Beata Kowalski.

190. Based on Defendant's tortious conduct, and Beata's resulting death, this cause of action accrued.

191. Damages for Beata's wrongful death are recoverable by Beata's personal representative.

192. WHEREFORE, Plaintiffs, Jack Kowalski, Maya Kowalski, and Kyle Kowalski, as survivors, and Jack Kowalski, on behalf of the Estate of Beata, demand judgment against Defendant, Johns Hopkins All Children's Hospital, Inc. and JHHS, as follows:

a. For direct injury to Beata Kowalski through Jack Kowalski as personal representative of the Estate of Beata Kowalski;

b. For general damages, including bodily injury; physical suffering; physical inconvenience and discomfort; mental agony; mental and emotional suffering and distress; the severing of Beata's relationship with her daughter; diminishment in feelings of self-worth and self-esteem; embarrassment; humiliation; feelings of helplessness and powerlessness; deprivation of liberty; and other disgrace and injury to Beata's mental and emotional health and reputation;

c. For special damages including, but not limited to, medical and psychological care; expenses including treatment and medications for anxiety, depression, PTSD, and other associated psychological conditions; loss of income in the future; and legal expenses to defend against accusations of Beata being a child abuser;

d. For all damages available to the survivors and the Estate of Beata pursuant to Florida's Wrongful Death Statute, and specifically Fla. Stat. § 768.21, including but not limited to: lost support and services, with interest, and future loss of support and services; Jack's loss of his wife Beata's companionship and for mental pain and

suffering from the date of Beata's injuries; Jack's future loss of support and services from Beata's death on January 8, 2017 to his life expectancy of 82 years, reduced to present value and with pre-judgment interest on the past losses; financial losses to Jack include the amount of the Beata's future net income based on her average salary of \$61,500 (2015) plus reasonable increases through to the expected end of her work life at age 65, less reasonable living expenses, available for *pro rata* distribution to him, and the replacement value of Beata's services around the house and in their lives through his expected life, both reduced to present value; Maya and Kyle's loss of their mother's care, comfort and support, lost parental companionship, instruction and guidance and mental pain and suffering from the date of their mother Beata's injuries; medical and funeral expenses; and loss of the prospective net accumulations of Beata's estate; and further; and

e. For any other relief to the Estate of Beata Kowalski and her survivors are entitled to under this Count and/or which this Honorable Court allows.

COUNT XIV.C

**NEGLIGENT TRAINING, SUPERVISION AND RATIFICATION OF ITS INVOLVED
DOCTORS AND HEALTHCARE PROVIDERS AGAINST JOHNS HOPKINS ALL
CHILDREN'S HOSPITAL ON BEHALF OF
JACK KOWALSKI, INDIVIDUALLY, AND ON BEHALF OF HIS MINOR CHILD,
MAYA KOWALSKI**

193. Plaintiff, Jack Kowalski, individually, and on behalf of his minor daughter, Maya Kowalski, realleges and re-avers paragraphs 1-50 and paragraphs 169-184.

194. Defendants' actions as afore pled directly and proximately caused damages to these individual Plaintiffs.

195. WHEREFORE, Plaintiff, Jack Kowalski, individually, and on behalf of his minor

daughter, Maya Kowalski, demand judgment against Defendant, Johns Hopkins All Children's Hospital, as follows:

a. For general damages, including: bodily injury; physical suffering; physical inconvenience and discomfort; mental anguish; mental and emotional suffering from isolation, embarrassment, humiliation, and intimidation; mental anguish caused by the fight of flight impulse and concerns over her safety; violations of personal dignity; deprivation of liberty; feelings of helplessness and powerlessness; the effects and manifestations of PTSD; and further disgrace and injury to Maya's mental and emotional well-being;

b. For special damages including, but not limited to, medical and psychological care in the past and future; expenses in the past and in the future including treatment and medications for anxiety, depression, PTSD, and other associated psychological conditions including an increased risk of dying early from exacerbated CRPS; probable increase in frequency, duration and intensity of relapse of CRPS episodes; probable loss of income in the future as the disease progresses into her late 30's and beyond; and legal and other public relations expenses in the future to reclaim her dignity and extract herself from any public records or medical records maintained by the Defendants or any health care provider that include unauthorized and non-consensual video recordings and/or photographs of Maya in intimate, private, and traumatic situations at the hands of the Defendants and further assistance as she ages for which a life care plan will likely be necessary; for attorney fees necessitated to defend herself from allegations and consequences from the accusations of mental illness likely to follow her the rest of her life.

c. For such other relief as this Honorable Court deems just and proper.

COUNT XV

**NEGLIGENT SUPERVISION, MANAGEMENT AND RATIFICATION
OF JOHNS HOPKINS ALL CHILDREN'S HOSPITAL
AGAINST JOHNS HOPKINS HEALTH SYSTEM CORPORATION**

Summary Judgment Granted In Favor Of Defendant Johns Hopkins Health System Corporation By Order Entitled Final Summary Judgment In Favor Of Defendant JHHSC Dated January 12, 2022 [DIN 2184]

COUNT XVI

**KYLE KOWALSKI'S LOSS OF CONSORTIUM CLAIM
AGAINST ALL NAMED DEFENDANTS**

Summary Judgment Granted In Favor Of Defendants By Order Granting Defendants' Motion For Summary Judgment As To Claims By K.K. (Through His Father) Dated January 3, 2022 [DIN 2153]

COUNT XVII

**MEDICAL MALPRACTICE PURSUANT TO FLA. STAT. CHAPTER 766 AGAINST
JOHNS HOPKINS ALL CHILDREN'S HOSPITAL, SUNCOAST CENTER, INC., AND
DR. SALLY SMITH FOR THE CARE OF BEATA KOWALSKI**

Summary Judgment Granted In Favor Of Defendants By Order Granting Defendants' Motion For Summary Judgment As To Count XVII Dated January 3, 2022 [DIN 2152]

COUNT XVIII

FRAUD AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL

Re-Pled And Re-Asserted To Cure Pleading Deficiencies Noted In Order On Motions To Dismiss Dated March 10, 2021 [DIN 1381]

Amendment Permitted Pursuant to Motion to Dismiss Granted with Prejudice in Favor of Defendants by Order Granting In Part and Denying In Part Multiple Motions to Dismiss and Strike Various Counts Within the Seventh Amended Complaint Dated January 17, 2023 [DIN 2802]

196. Plaintiffs re-aver Paragraphs 1 – 50.

197. This is an action brought by Jack Kowalski, individually on behalf of his minor daughter, Maya Kowalski, and as personal representative for the Estate of Beata Kowalski for

special damages incurred by Beata Kowalski during her life.

198. From the day that Maya was admitted to JHACH on October 7, 2016, through the day that the dependency court ordered her discharge and return to her widowed father's care over JHACH's strenuous objection, Defendant JHACH refuted Maya's CRPS diagnosis and refused to provide CRPS treatment.

199. Yet, throughout Maya's admission and sheltering at Johns Hopkins' hospital, JHACH billed the Kowalskis and their health insurers, Aetna, and CVS Health, for CRPS treatment.

200. Beginning as early as the first week of Maya's admission in the second week of October 2016, JHACH and Smith, acting in concert, disregarded the previously undisputed CRPS diagnosis of Maya's outside treating physicians – including Drs. Kirkpatrick, Cantu, Hanna, Barr, and Spiegel, and even their own records in 2015 by Dr. Kriseman (among others) and “diagnosed” Maya instead with various psychiatric conditions including Factitious Disorder and Conversion Disorder. At times JHACH and Smith attributed these conditions directly to Maya as a willing and knowing participant in the “charade”, and at other times JHACH and Smith painted Maya as a victim of Pediatric Falsification Syndrome or the nebulous and disregarded theory “diagnosis” of Munchausen by Proxy. Defendant JHACH went so far as directing its attorneys and its doctors to state as officers of the court and swear under oath that Maya was a victim of Munchausen-by-Proxy or Factitious Disorder Imposed on Another and that Beata Kowalski was a perpetrator of that disorder (and crime) on her daughter, and that Maya had, confusingly, Conversion Disorder and Factitious Disorder.

201. At all times during Maya's three months at JHACH, the Defendants provided little to no care or treatment for CRPS. The bills for Maya's care provided to the Kowalskis and their

insurers, however, attributed nearly all of JHACH's medical care and treatment to services for CRPS, when in fact they were treating Maya for various psychological conditions.

202. JHACH's deceptive practice of denying Maya's CRPS diagnosis while continuing to bill the Kowalskis and their insurers for CRPS treatments continued through January 2017 and even beyond the point at which Maya's mother took her own life to free Maya. Outrageously, at the same time that JHACH was arguing to the Dependency Court that Maya needed to be transferred to an inpatient psychiatric program to address her psychiatric condition(s) and continuing to insist that Maya did not have and never had CRPS, JHACH was billing the Kowalskis and their insurers for CRPS treatments and services.

203. In billing for services that were never performed for a diagnosis that JHACH never accepted during Maya's fall 2016/spring 2017 admission, JHACH made false statements concerning material facts, specifically, it billed for an illness it either believed she did not have, CRPS, or committed perjury of the worst kind by deliberately misrepresenting Maya's illness as being caused by her own mother, Beata, in a court of law, beginning a chain of events that ultimately and directly led to the suicide of Beata Kowalski, the exacerbation of Maya's illness, the loss of a wife by Jack Kowalski, the loss of a mother by Kyle and Maya and the loss of a childhood of both.

204. JHACH had knowledge the representations being made were false, as every act that JHACH and Smith took upon Maya's admission beginning October 7, 2016, rested upon the premise that Maya did not have CRPS.

205. JHACH made these false statements with the intent that others would act their representations, namely that the Kowalskis and their health insurers would pay for the CRPS treatments and services being provided.

206. The Kowalskis and their health insurers relied on the representations being made, and the Plaintiffs were injured through the fraudulent billing of their insurer as well as the payment of premiums, co-pays, and deductibles and upon information and belief, they will have increased premiums and difficulty finding insurance in the future. Additionally, Plaintiffs were and continue to be injured in that the Kowalskis' health insurers may seek reimbursement from the Kowalskis for the CRPS treatments and services that were fraudulently billed during Maya's sheltering at JHACH.

207. WHEREFORE, Plaintiffs demand judgment against Defendants, Johns Hopkins All Children's Hospital, Inc., for special damages to compensate for the damages including co-pays, increased premiums over their lives, difficulty finding insurance and having to pay back insurance payments they did not and should not have incurred, and for any such other relief this Court deems just and proper.

COUNT XIX

**CONVERSION AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL,
CATHERINE BEDY, AND DR. SALLY SMITH**

Dismissed by Order on Motions to Dismiss dated March 10, 2021|DIN 1381|

COUNT XX

**FRAUDULENT CONCEALMENT AND/OR MISREPRESENTATION
AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL
AND CATHERINE BEDY
ON BEHALF OF MAYA, JACK, AND THE ESTATE OF BEATA**

208. Plaintiff, Jack Kowalski, individually and on behalf of his minor daughter Maya Kowalski, and as personal representative of the Estate of Beata Kowalski, re-avers paragraphs 1 – 50.

209. Defendants JHACH and Smith covertly conducted video surveillance of Maya for

approximately 48 hours between October 18th and 20th, 2016 to catch her in the act of faking her CRPS (i.e., the “charade”), stating plainly in text messages that Maya would make physiological mistakes and could not keep up the charade 24/7.

210. The video surveillance conducted by JHACH and Smith revealed that Maya, in fact, suffered from CRPS and could not even walk to the commode, requiring the assistance of a nurse to move Maya from her bed to the commode with her feet dragging on the floor. Smith reviewed the videotape as did JHACH healthcare providers.

211. JHACH and Smith knew that this video surveillance contained exculpatory evidence, but rather than disclose the exculpatory evidence, the Defendants pretended it did not exist and never mentioned it to the Kowalskis or the dependency court. Rather, JHACH and Smith intentionally withheld the information for the purpose of inducing action on the part of the Kowalskis and the dependency court.

212. JHACH and Smith withheld this information from the Kowalskis with the intention that Jack and Beata would be forced to act in reliance on the nondisclosure. Jack and Beata were forced to contend with JHACH’s and Smith’s continued (and knowingly false) assertion, made directly to the Kowalskis in person and by telephone, that Maya was not suffering from CRPS and did not exhibit the reduced mobility, pain, and other associated CRPS symptoms that Jack and Beata had personally observed for nearly two years.

213. In reliance on JHACH’s and Smith’s intentional concealment and misrepresentation, the Kowalskis were forced to seek out psychiatric and other renowned medical experts to attempt to prove the information that was already in JHACH’s and Smith’s possession: Maya suffered from CRPS. Jack and Beata’s efforts came at great personal expense and took a severe toll in terms of time and emotional and mental energy expended to corroborate what they

already knew to be true, but JHACH and Smith denied. Additionally, the time that Maya was kept away from Jack and Beata was unnecessarily extended due to the concealment of exculpatory information. With Jack, it was a matter of an extra two and a half months. With Beata, it was forever.

214. WHEREFORE and as a direct and proximate result of the Defendants' actions and statements, Plaintiff, Jack Kowalski, individually and on behalf of his minor daughter Maya Kowalski, and as personal representative of the Estate of Beata Kowalski, demands judgment against Defendants, Johns Hopkins All Children's Hospital and Catherine Bedy, for general and special damages to compensate for the damages outlined above including legal fees to extract them from the Defendants' unsupported allegations, and the medical costs of the exacerbation of her CRPS as aforepleaded, including the expenses outlaid and past and future psychological care necessary to compensate for the fraud and deception visited upon the Kowalski family, and for any such other relief this Court deems just and proper.

COUNT XXIA

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL AND CATHERINE
BEDY,
ON BEHALF OF THE ESTATE OF BEATA KOWALSKI

215. This is a Survival action brought by Jack Kowalski on behalf of the Estate of Beata Kowalski.

216. Plaintiffs re-aver paragraphs 1 – 50.

217. [Intentionally deleted].

218. The wrongful acts and negligence of Defendants would have entitled Beata Kowalski to maintain an action for Intentional Infliction of Emotional Distress had she survived.

219. Defendants' conduct, as described in the paragraphs re-averred above and further

described within this Count, was intentional and/or reckless. Defendants knew that emotional distress and bodily harm would result from their actions, and yet their harassment, maltreatment, and intimidation of Jack, Beata and Maya was unrelenting and continued after they knew the damage and injury they were causing.

220. At all times relevant to this Count, Smith acted as an agent of JHACH.

221. Plaintiffs acknowledge that Maya was sheltered upon court order, but Defendants cannot escape liability for their conduct simply because Maya was left in their care and custody, just as a foster parent cannot abuse a child simply because the child has been placed in their home by the state. During Maya's sheltering at JHACH, she was sexually battered by Bedy after being put under the charge of Bedy, who had a known criminal history and/or history of attempted physical altercations. Maya was repeatedly and incessantly told that SHE was the problem, that SHE was crazy, that SHE was faking it, and that her psychiatric conditions and feigned illness were the cause of her extended separation from her parents. She was told on a regular basis by Bedy that she would never see her mother again. Smith, as an agent of JHACH, and Bedy at the direction of JHACH Risk Management, as well as certain doctors upon information and belief include Teppa-Sanchez, Vose, Major, Dees and others directed that Maya be locked in a dark room for roughly 48 hours to "prove" that Maya was faking her CRPS affliction. Smith and then Bedy created a narrative, accepted by JHACH Risk Management and doctors without question, then bolstered and regurgitated, that Beata was an evil mother trying to poison her own little girl and that Maya was a confused little girl with psychiatric problems likely as the result of her mother. Consequently, so the false narrative went, (and conveniently for their story), that nothing Beata and Maya said or did could be trusted. Everything Beata did was a further step to harm her daughter. Although this view of Beata as a mother seeking to harm her 10-year-old daughter lacked

any support in fact or medicine, Smith confirmed this perverse worldview in text messages with JHACH physicians, stating: “I would not put anything past her mother [Beata] ... 😊”. Everyone the Kowalskis came in contact with at JHACH treated them as psychotic and pariahs. Jack was portrayed (despite being a retired career Chicago firefighter who saved countless lives and rose to the level of Deputy Chief), as a bumbling, weak and incompetent father who was incapable of protecting his own daughter and controlling his obviously evil wife. This was also circulated among all JHACH personnel involved as gospel. Not only was none of it true, the Risk Management Committee, Smith, Bedy, Teppa-Sanchez, Dees, Major and Vose knew it wasn’t true.

222. All of these actions and behaviors directed at Maya caused her severe emotional distress and bodily harm including insomnia, shaking, incontinence, nausea and aggravation of her CRPS and were extreme, outrageous, and utterly intolerable in any civilized community, not to mention a hospital that holds itself out as a protector of children.

223. Even the most innocuous requests by Maya and her family were treated as criminal conduct. When parishioners from the Kowalskis’ church visited to bless Maya and present the statue of Mary to watch over Maya during her stay, JHACH threatened the parishioners and banned them from visiting Maya to pray with her. JHACH confiscated communion wafers and rosary beads from Jack and Maya. JHACH denied Maya’s requests to have *her* priest visit without any justification. When Jack arrived with Kyle to take Maya to a holiday festival (since she spent Halloween, Thanksgiving, Christmas, and her 11th birthday in JHACH), Bedy and the JHACH staff stepped in to prevent even an ounce of joy, again without justification. All of this inflicted severe emotional distress on Jack and Maya.

224. JHACH’s medical records reflect that Beata stated her suicidal ideations clearly to the Hospital’s ER and/or PICU physicians early in Maya’s admission as JHACH ratcheted up the

pressure on Jack, Beata, and Maya.

225. The harassment and intimidation campaign continued throughout the admission, and JHACH's doctors knew that they were pushing Beata to the brink and causing the break-up of Jack and Beata's marriage. At least two physicians (Drs. Vose and Teppa-Sanchez) at JHACH **predicted** that Beata would commit suicide and acknowledged that they had seen this play out before.

226. Outrageously, and beyond all bounds of humanity and decency, JHACH and its physicians did nothing to alleviate the pressure on Jack, Beata, and Maya, and pushed Beata over the edge.

227. JHACH's actions and those of its employees and agents caused the ultimate emotional distress to Maya, Jack and Beata. Maya and Jack are left to cope with the knowledge that Beata was a devoted and loving mother and wife who was targeted by Smith and JHACH. Maya's last memories of her mother are of her mother crying on the phone and being unable to express even the most basic human emotions of longing to be together without Bedy interrupting and directing that they were unable to discuss even how Maya was feeling, or that they missed each other.

228. Defendants' actions were beyond the scope of any acceptable human behavior.

229. The Defendants' actions directly and proximately caused physical injury to Maya, severe distress to Beata, severe humiliation to all three, emotional pain and suffering to each and damages and injuries.

230. WHEREFORE, Plaintiff, Jack Kowalski, as personal representative of the Estate of Beata, and further Jack on behalf of the Estate of Beata Kowalski, demand judgment against Defendants, Johns Hopkins All Children's Hospital and Catherine Bedy, for Intentional Infliction

of Emotional Distress as follows:

a. For direct injury to Beata Kowalski pursuant to Fla. Stat §§ 46.021 and 768.19, for all Survival damages available for the Intentional Infliction of Emotional Distress and the physical injury(ies) of and damages arising therefrom up and until the time of Beata's death by suicide on or about January 7, 2017;

b. For general damages, including bodily injury; physical suffering; physical inconvenience and discomfort; mental agony; mental and emotional suffering and distress; the severing of Beata's relationship with her daughter; diminishment in feelings of self-worth and self-esteem; embarrassment; humiliation; feelings of helplessness and powerlessness; deprivation of liberty; and other disgrace and injury to the Plaintiffs' mental and emotional health and reputations;

c. For special damages including, but not limited to, medical and psychological care in the past; expenses in the past including treatment and medications for anxiety, depression, PTSD, and other associated psychological conditions; probable loss of income in the future; the loss of net accumulations from the income and benefits of Beata Kowalski from the date of the beginning of the war upon her to her death on or about January 8th, 2017; and legal expenses to defend against accusations of Beata being a child abuser; and

d. For any other relief to which the Estate of Beata Kowalski is entitled under this Count and/or which this Honorable Court allows.

COUNT XXI.B

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL AND CATHERINE Bedy, ON BEHALF OF THE ESTATE OF BEATA KOWALSKI AND HER SURVIVORS, JACK KOWALSKI, AND HIS MINOR CHILDREN, MAYA AND KYLE KOWALSKI

231. This is a Wrongful Death action brought by Jack Kowalski as the personal representative of the Estate of Beata Kowalski.

232. Plaintiffs re-aver paragraphs 1 – 50 and 219 – 229.

233. The Defendants committed tortious acts as averred in the paragraphs incorporated above.

234. The Defendants' tortious conduct caused the death of Beata Kowalski.

235. Based on Defendants' tortious conduct, and Beata's resulting death, this cause of action accrued.

236. Damages for Beata's wrongful death are recoverable by Beata's personal representative.

237. WHEREFORE, Plaintiffs, Jack Kowalski, Maya Kowalski, and Kyle Kowalski, as survivors, and Jack Kowalski, on behalf of the Estate of Beata, demand judgment against Defendants, Johns Hopkins All Children's Hospital, Inc., and Catherine Bedy, for Intentional Infliction of Emotional Distress as follows:

a. For direct injury to Beata Kowalski through Jack Kowalski as personal representative of the Estate of Beata Kowalski;

b. For general damages including bodily injury; physical suffering; physical inconvenience and discomfort; mental agony; mental and emotional suffering and distress; the severing of Beata's relationship with her daughter; diminishment in feelings of self-worth and self-esteem; embarrassment; humiliation; feelings of helplessness and powerlessness; deprivation of liberty; and other disgrace and injury to Beata's mental and emotional health and reputation;

c. For special damages including, but not limited to, medical and

psychological care; expenses including treatment and medications for anxiety, depression, PTSD, and other associated psychological conditions; loss of income in the future; and legal expenses to defend against accusations of Beata being a child abuser;

d. For all damages available to the survivors and the Estate of Beata pursuant to Florida's Wrongful Death Statute, and specifically Fla. Stat. § 768.21, including but not limited to: lost support and services, with interest, and future loss of support and services; Jack's loss of his wife Beata's companionship and for mental pain and suffering from the date of Beata's injuries; Jack's future loss of support and services from Beata's death on January 8, 2017 to his life expectancy of 82 years, reduced to present value and with pre-judgment interest on the past losses; financial losses to Jack include the amount of the Beata's future net income based on her average salary of \$61,500 (2015) plus reasonable increases through to the expected end of her work life at age 65, less reasonable living expenses, available for *pro rata* distribution to him, and the replacement value of Beata's services around the house and in their lives through his expected life, both reduced to present value; Maya and Kyle's loss of their mother's care, comfort and support, lost parental companionship, instruction and guidance and mental pain and suffering from the date of their mother Beata's injuries; medical and funeral expenses; and loss of the prospective net accumulations of Beata's estate; and further; and

e. For any other relief to the Estate of Beata Kowalski and her survivors are entitled to under this Count and/or which this Honorable Court allows.

COUNT XXLC

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL AND CATHERINE**

BEDY,
ON BEHALF JACK KOWALSKI, INDIVIDUALLY, AND HIS MINOR CHILD, MAYA
KOWALSKI

238. Plaintiff, Jack Kowalski, individually, and on behalf of his minor daughter, Maya Kowalski, realleges and re-avers paragraphs 1-50 and 219 – 229.

239. The Defendants deliberately and/or recklessly inflicted mental suffering on Maya. Bedy took semi-nude photographs of Maya over Maya's vehement objections, screaming, and crying. Bedy further sexually battered Maya through unwanted advances, unwelcome touching, and kissing and caressing of Maya. JHACH treated Maya as a psych patient, locked her in a darkened room for nearly two days for covert video observation and recording without any medical purpose, and isolated her from her family, friends, schoolmates, her priest, and all systems of support and comfort on JHACH's pure whim. JHACH denied appropriate treatment and care from Maya, offering sparse psychological care and counseling during the Hospital's period of torment. JHACH refused Maya's doctors access to Maya despite Court orders requiring such access. The natural and proximate result of these actions was severe mental distress and suffering in then 10-year-old Maya, confusion, depression, and anxiety.

240. During Maya's seclusion in the darkened room, the Defendants (Maya's tormenters) had actual knowledge that Maya's legs were no longer capable of supporting her. Nevertheless, the Defendants intentionally placed Maya out of reach of the commode so that the child had to make a choice of soiling herself in her bed or attempting to drag herself out of her bed using her arms over to the toilet. The Defendant health care providers deliberately forced Maya to humiliate herself by either pleading for their help or urinating and/or defecating on herself. Defendants devised this torture technique with the absence of any medical purpose, and hid the torture from Maya's parents by omitting

241. In a civilized society, no hospital, doctor, nurse, or social worker can be permitted

to completely and totally isolate a ten-year-old child and lock them in the dark for days at a time. Even an hour of this form of cruel and unusual punishment – inflicted by anyone, much less a doctor or a hospital - is considered child abuse in civilized society. Similarly, no adult in a civilized society can be permitted to take semi-nude photographs of a child without their consent, or that of their parents, and the Defendants here had neither.

242. The Defendants' offenses are aggravated by the fact that Maya was a minor during the time of this outrageous conduct.

243. The Defendants' conduct was so outrageous as to invoke Florida's criminal statutes, and by reference, the type of conduct committed by Defendants has been deemed sufficiently unacceptable by society and outrageous enough to warrant depriving offenders of their liberty. Florida abhors violence, corporal punishment, and cruel and unusual punishment of children and reserves its most drastic sanction for individuals who act in the same fashion as Defendants here. *See*, Fla. Stat. §827.03, the definitions contained therein are incorporated here by reference.

244. The Defendants' conduct towards Maya was outrageous and caused emotional distress. The emotional distress was severe and Maya continues to suffer from PTSD and associated psychological conditions as a direct and proximate result of Bedy's and JHACH's outrageous conduct.

245. The Defendants deliberately and/or recklessly inflicted mental suffering on Jack. The Defendants' actions were so outrageous as to take them beyond the scope of acceptable human conduct in that they intentionally deprived Jack of the control, effect, and involvement in his suffering daughter's care. The Defendants subjected Maya to extreme stressors and abuse with the knowledge that directly through their own representations, or indirectly through Maya's

description, Jack would have full knowledge that his ten-year-old daughter was being physically and emotionally abused, and there was nothing he could do about it. The Defendants intentionally set up a scheme or plan to place the maximum amount of stress and mental torment on Jack with an unlawful and malicious goal of forcing concurrence and compliance with the Hospital's portrayal of his daughter as suffering from psychiatric disorders and his wife a perpetrator of child abuse. The Defendants preyed on Jack's parental instinct – to protect his child at all costs – knowing that Jack would be tormented by his knowledge that they were mistreating Maya. The plan was deliberately designed to play on the stress caused to Jack knowing that he did not have the power to protect his child.

246. The Defendants' conduct towards Jack was outrageous and caused Jack severe emotional distress.

247. Defendants' actions as aforepleaded directly and proximately caused damages to these individual Plaintiffs.

248. WHEREFORE, Plaintiff, Jack Kowalski, individually, and on behalf of his minor daughter, Maya Kowalski, demand judgment against Defendants, Johns Hopkins All Children's Hospital and Catherine Bedy, as follows:

- a. For general damages, including: bodily injury; physical suffering; physical inconvenience and discomfort; mental anguish; mental and emotional suffering from isolation, embarrassment, humiliation, and intimidation; mental anguish caused by the fight of flight impulse and concerns over her safety; violations of personal dignity; deprivation of liberty; feelings of helplessness and powerlessness; the effects and manifestations of PTSD; and further disgrace and injury to Maya's mental and emotional well-being;

b. For special damages including, but not limited to, medical and psychological care in the past and future; expenses in the past and in the future including treatment and medications for anxiety, depression, PTSD, and other associated psychological conditions including an increased risk of dying early from exacerbated CRPS; probable increase in frequency, duration and intensity of relapse of CRPS episodes; probable loss of income in the future as the disease progresses into her late 30's and beyond; and legal and other public relations expenses in the future to reclaim her dignity and extract herself from any public records or medical records maintained by the Defendants or any health care provider that include unauthorized and non-consensual video recordings and/or photographs of Maya in intimate, private, and traumatic situations at the hands of the Defendants and further assistance as she ages for which a life care plan will likely be necessary; for attorney fees necessitated to defend herself from allegations and consequences from the accusations of mental illness likely to follow her the rest of her life.

c. For such other relief as this Honorable Court deems just and proper.

COUNT XXII

ENGAGING IN UNNECESSARY DIAGNOSTIC TESTING
UNDER FLA. STAT. § 766.111
AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL

Motion to Dismiss Granted with Prejudice in Favor of Defendant by Order Granting In Part and Denying In Part Multiple Motions to Dismiss and Strike Various Counts Within the Seventh Amended Complaint Dated January 17, 2023 [DIN 2802]

249. Plaintiff, Jack Kowalski, individually and on behalf of his minor daughter Maya Kowalski, realleges and reavers paragraphs 1 – 50 as if fully re-pled herein.

250. Fla. Stat. § 766.111 creates a civil cause of action for unnecessary diagnostic

testing, and provides:

(1) No health care provider licensed pursuant to chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 shall order, procure, provide, or administer unnecessary diagnostic tests, which are not reasonably calculated to assist the health care provider in arriving at a diagnosis and treatment of a patient's condition.

...
(3) Any person who prevails in a suit brought against a health care provider predicated upon a violation of this section shall recover reasonable attorney's fees and costs.

See also Haynes v. Blackshear, 311 So. 3d 163, 170 (Fla. 2d DCA 2020).

JHACH (and the involved physicians for which JHACH is vicariously liable) were and are licensed under the Chapters referenced above.

251. Within the first weeks of Maya's incarceration at JHACH, in October 2016, Dr. Sally Smith ordered attending physician Dr. Paola Dees and/or other JHACH physicians and employees to order, procure, provide and/or administer a video electroencephalograph ("EEG") study including approximately 48 hours of video surveillance for Maya.

252. As a result of Smith's order for the video EEG surveillance, JHACH physicians, including attending physician Dr. Dees, ordered, procured, provided and/or administered the video EEG and/or video surveillance. At least two EEG technicians at JHACH were tasked with watching the EEG videos and leaving comments within the EEG program regarding when, where, and how Maya appeared to have shifted positions and/or moved an extremity.

253. This video EEG surveillance of Maya was not ordered, procured, provided and/or administered by Drs. Smith, Dees, and other JHACH physicians to assist them with the diagnosis and/or treatment of Maya. The resulting video EEG surveillance was not interpreted, discussed, or even referenced in a progress note anywhere in Maya's medical record at JHACH, nor in any report or other note of Smith. The video EEG surveillance was never brought up to Jack, Beata, the Dependency Court or anyone diagnosing or treating Maya at the time or thereafter.

254. As a result of Drs. Smith, Dees and other JHACH physicians ordering, procuring, providing and/or administering the video EEG surveillance of Maya, video footage of Maya's private moments and/or actions were created and viewed by numerous people, including Smith, two EEG technicians, at least one of which was male, and an unidentified JHACH employee referenced by Dees and Smith as "Cindy". These private moments and/or actions included numerous instances where Maya undressed her bottom half and used the bedside commode, wiped herself, changed her clothing, and adjusted her training bra.

255. This unnecessary video EEG surveillance was ordered, procured, provided and/or administered by Smith, Dees and other JHACH physicians to further the campaign of harassment and degradation against the Kowalskis, to catch Maya in a "charade", and/or for reasons not associated with or reasonably calculated to assist the involved health care providers in arriving at a diagnosis and treatment of Maya's condition.

256. That the video EEG was not reasonably calculated to assist JHACH, Dees and Smith in arriving at a diagnosis and treatment of Maya's condition is self-evident because the Defendants never interpreted the video EEG surveillance, shared any results with any of the involved health care providers, the Kowalski family, DCF, Maya's outside treating physicians, or the Dependency Court, or entered any diagnostic or treatment opinion based on the video EEG surveillance in Maya's medical record.

257. Separately, on or about December 29, 2016, the dependency court ordered JHACH to discharge Maya to the custody of her uncle, Scott Kowalski, to facilitate Maya's attendance in court on January 6, 2017, and to be evaluated by Drs. Tashawna Duncan and Ashraf Hanna.

258. JHACH attending physician Kristen S. Danielson, M.D., Catherine Bedy, Patricia M. Condon of JHACH Risk Management, and other JHACH providers and personnel determined

that the Dependency Court was not “truly concerned” about Maya; that “[w]e don’t know what the uncle will do”; and that “allowing her to leave the hospital with a family member who we know nothing about is a gross error in judgment”.

259. For no reason other than a baseless mistrust of everyone involved but JHACH’s Risk Management Committee, including Maya’s uncle and the dependency judge, and exercising its self-proclaimed superior judgment, JHACH and its physicians, including Danielson and Jessie Lena Hoang, as well as resident-Drs. Kejal Desai and Alison Cullinane, then ordered urine drug tests for Maya to take both before and after her appearance at the dependency hearing on January 6, 2017. These tests were ordered to catch Maya’s uncle in the act of providing Maya “drugs of abuse”, including THC/Marijuana, Cocaine, Methamphetamine, Barbiturates, Benzodiazepines, and Oxycodone. During her first two days (October 7th and 8th) a pediatric cardiologist ordered and completed an unnecessary and uncalled for EKG despite the fact that this was a ten-year-old girl with no history of cardiac issues and no indications for any need of an EKG but where the EKG would likely cause a CRPS patient physical pain, which it did.

260. In other words, JHACH conducted a covert sting operation to ‘catch’ Maya and Maya’s uncle since, in JHACH’s opinion, the dependency court had made a “gross error in judgment”.

261. Again, the absence of any diagnostic or treatment value is self-evident, as none of the ordering physicians nor any other JHACH provider discussed, interpreted, or even referenced the results in a progress note, and no treatment or diagnostic recommendations were made after the urine drug tests were administered. The results of the drug tests were not disclosed to the Dependency Court as they provided further exculpatory evidence and undercut JHACH’s ongoing conspiracy against the Kowalskis.

262. These two tests for “drugs of abuse” simply furthered the campaign of harassment and degradation against the Kowalskis and now the uncle, furthering JHACH’s and JHACH Risk Management’s efforts to indulge in baseless, speculative conspiracies about Maya and her family, this time Maya’s uncle, drugging her up with “drugs of abuse” like THC/Marijuana, Cocaine, Methamphetamine, Barbiturates, Benzodiazepines, Oxycodone and/or others for reasons not associated or reasonably expected to assist with diagnosis and treatment of Maya.

263. As a direct and proximate result of the actions of Smith (an agent of JHACH) and numerous JHACH physicians for whom JHACH has accepted responsibility and liability, including Drs. Kristen Danielson, Kejal Desai, Alison Cullinane, Jessie Hoang, and Paola Dees, Maya was injured in that she suffered and continues to suffer depression, anxiety, PTSD, and associated mental and emotional suffering. Beata and Jack suffered emotional anguish knowing that their beloved daughter was being mistreated, leading ultimately to Beata’s suicide, and in Jack’s case, continuing grief over the injury and harm perpetrated on his daughter and the helplessness of not being able to care for her and support her as she struggled with CRPS and was isolated from her family. Jack also suffered emotional anguish upon learning that JHACH and its physicians treated Maya’s immediate and extended family as criminals at every turn and created a 48-hour video of his daughter’s private moments without his knowledge or consent. These injuries and damages will continue for the duration of the lives of Maya and Jack.

264. WHEREFORE, Plaintiff Maya Kowalski, by and through Jack Kowalski as her parent and guardian, demands judgment against Defendant, Johns Hopkins All Children’s Hospital as follows:

- a. For general damages including bodily injury; physical suffering; physical inconvenience and discomfort; mental anguish caused by loneliness and isolation;

mental and emotional suffering from intimidation, embarrassment, and humiliation; deprivation of liberty; and other disgrace and injury to Maya's mental and emotional well-being;

b. For special damages including, but not limited to, medical and psychological care in the past and future; expenses in the past and in the future including treatment and medications for anxiety, depression, PTSD, and other associate psychological conditions; and legal and other public relations or compensatory expenses in the future to reclaim her dignity and extract herself from any public records or medical records maintained by the Defendants or any health care provider that include unauthorized and non-consensual video recordings and/or photographs of Maya in intimate, private, and traumatic situations at the hands of the Defendants;

c. For attorneys' fees and costs pursuant to Fla. Stat. § 766.111; and

d. For such other relief as this Honorable Court deems just and proper.

265. WHEREFORE, Plaintiff Jack Kowalski demands judgment against Defendant Johns Hopkins All Children's Hospital, Inc., as follows:

a. For special damages including, but not limited to, medical and legal expenses incurred as a result of the two drug tests and the video EEG;

b. For attorneys' fees and costs pursuant to Fla. Stat. § 766.111; and

c. For such other relief as this Honorable Court deems just and proper.

proper.

COUNT XXIII

WRONGFUL DEATH

**AGAINST JOHNS HOPKINS ALL CHILDREN'S HOSPITAL, CATHERINE BEDY,
AND JHACH THROUGH ITS AGENT DR. SALLY SMITH**

Stricken with respect to (1) Jack Kowalski, individually; (2) Jack Kowalski, as parent of M.K.; and (3) Jack Kowalski, as parent of K.K. by Order Granting In Part and Denying In Part Multiple Motions to Dismiss and Strike Various Counts Within the Seventh Amended Complaint Dated January 17, 2023 [DIN 2802]

Dismissed with respect to Jack Kowalski as Personal Representative of the Estate of Beata Kowalski by Same Order [DIN 2802]

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all issues so triable.

Respectfully submitted this 24th day of January, 2023.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 24, 2023 I electronically filed the foregoing document with the Clerk of the Court using Florida Court's E-Filing Portal and certify that all counsel of record have been served via transmission of Notice of Electronic Filing generated by Florida Court E-Filing Portal or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Gregory A. Anderson

Gregory A. Anderson, Esquire