

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT (BOSTON)

C.A. NO.: 2284CV

1419

CLERK / MAGISTRATE

2022 JUN 23 A 9:08

SUFFOLK SUPERIOR COURT  
CIVIL CLERK'S OFFICE

ALANA ROSS and, DANIEL MCCARTHY, )  
Plaintiffs, )  
v. )  
MASS GENERAL BRIGHAM, )  
BRIGHAM & WOMEN'S HOSPITAL, )  
HEIDI TAYLOR, JENNIFER CONRADO, )  
KATHERINE AMATO, )  
JANE DOE #1, JANE DOE #2, JOHN DOE # 1, )  
JOSE LOPES, JOHN GRZYB, )  
JACOB PLAISTED, MICHELLE SICILIANO, )  
JON C. ASTER, KEVIN SLATTERY, )  
BRENDA CAREY-MULLANEY, and )  
KYL A NIEDER. )  
Defendants. )

**COMPLAINT AND JURY DEMAND**

Plaintiffs, Alana Ross ("Alana") and Daniel McCarthy ("Daniel") (collectively, "Plaintiffs") state as follows for their complaint in this action:

**PARTIES**

1. Plaintiffs Alana Ross and Daniel McCarthy have, at all times relevant to this matter, resided in Sharon, Massachusetts in the county of Norfolk.

2. Defendant Mass General Brigham ("MGB") is, upon information and belief, a company with a principal place of business at 800 Boylston Street, Boston, Massachusetts in the county of Suffolk.

3. Defendant Brigham & Women's Hospital is a company with a principal place of business at 75 Francis Street, Boston, Massachusetts in the county of Suffolk.

4. Defendant Heidi Taylor is an individual who at all times relevant to this matter was an employee of Brigham & Women's Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. Her position was/is Neonatal Intensive Care Unit ("NICU") Nurse.

5. Defendant Jennifer Conrado is an individual who at all times relevant to this matter was an employee of Brigham & Women's Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. Her position was/is NICU Nurse.

6. Defendant Katherine Amato is an individual who at all times relevant to this matter was an employee of Brigham & Women's Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. Her position was/is Security Officer.

7. Defendant Jane Doe #1 is an individual who at all times relevant to this matter was an employee of Brigham & Women's Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. Upon information and belief, her position was/is NICU Supervisor.

8. Defendant Jane Doe #2 is an individual who at all times relevant to this matter was an employee of Brigham & Women's Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. Upon information and belief, her position was/is Nurse/Social Worker.

9. Defendant John Doe #1 is an individual who at all times relevant to this matter was an employee of Brigham & Women's Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. Upon

information and belief, John Doe #1 oversaw the morgue's administration, direction, financing, and/or management.

10. Defendant Jose Lopes is an individual who at all times relevant to this matter was an employee of Brigham & Women's Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. His position was/is Patient Transport.

11. Defendant John Grzyb is an individual who at all times relevant to this matter was an employee of Brigham & Women's Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. His position was/is Pathologist.

12. Defendant Jacob Plaisted is an individual who at all times relevant to this matter was an employee of Brigham & Women's Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. His position was/is Pathologist.

13. Defendant Michelle Siciliano is an individual who at all times relevant to this matter was an employee of Brigham & Women's Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. Her position was/is Technical Operations Manager, Autopsy and Decedent Affairs.

14. Defendant John C. Aster is an individual who at all times relevant to this matter was an employee of Brigham & Women's Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. His position was/is Interim Chair of Pathology.

15. Defendant Kevin Slattery is an individual who at all times relevant to this matter was an employee of Brigham & Women's Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. His position was/is Director of Security.

16. Defendant Brenda Carey-Mullaney is an individual who at all times relevant to this matter was an employee of Brigham & Women's Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. Her position was/is Investigator.

17. Defendant Kyla Nieder is an individual who at all times relevant to this matter was an employee of Brigham & Women's Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. Her position was/is Investigator.

#### **JURISDICTION AND VENUE**

18. This Court has subject matter jurisdiction over this action pursuant to G.L. c. 223A §§ 2, 3.

19. This Court has personal jurisdiction over each and every Defendant pursuant to G.L. c. 223 § 1. Defendants Mass General Brigham and Brigham and Women's Hospital transact business, trade, and commerce in Massachusetts, including in connection with the property involved in this action located at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. Mass General Brigham and Brigham & Women's Hospital have their principal places of business in Massachusetts.

20. Each of the individually named Defendants have their principal place of employment at the Brigham & Women's Hospital located at 75 Francis Street in Boston, Massachusetts.

21. All of the Defendants have engaged in a course of conduct which has caused harm and injury to Plaintiffs in Massachusetts.

22. Venue exists in Suffolk County pursuant to G.L. c. 223 § 1 because each of the Defendants have as their principal places of business, or principal places of employment, a location in Suffolk County. Plaintiffs reside in Sharon, Massachusetts. Sharon is located in Norfolk County.

### **FACTUAL BACKGROUND**

23. Alana Ross and Daniel McCarthy ("Plaintiffs") learned they were pregnant on February 20, 2020. They named their child "Everleigh."

24. Plaintiffs chose Brigham and Women's Hospital ("BWH") to have Baby Everleigh because BWH held itself out and represented itself to consumers through marketing, advertising, and its online presence as "the most trusted name in women's health...a world leader in helping women live longer, healthier lives."

25. Alana Ross delivered Baby Everleigh at BWH on July 25, 2020. Baby Everleigh was born prematurely and suffered medical complications. She was immediately transported to the NICU.

26. On August 1, 2020, Plaintiffs were allowed to hold their daughter for the first time. They read Baby Everleigh her first book – *Little Red Riding Hood*.

27. From August 1 through August 6, 2020, Plaintiffs maintained a vigil at the hospital and hoped for a positive medical development for Baby Everleigh. They continued

to read to her, getting halfway through the third book in a series – *Judy Moody Saves the World* – by the end of the day on August 5, 2020.

28. On August 6, 2020, Plaintiffs and their parents returned to the hospital at the urging of BWH doctors and were told that further treatment options were exhausted.

29. Daniel's mother, Andrea Taber, baptized Baby Everleigh in her hospital room. Plaintiffs and their parents took turns holding Baby Everleigh.

30. Baby Everleigh died at BWH on August 6, 2021.

31. Plaintiffs handed Baby Everleigh to the BWH NICU nurses so that they could clean her body and dress her, which they did while Plaintiffs were still in the hospital room.

32. Thereafter, Jane Doe #2 approached Daniel to discuss if Plaintiffs wished to waive their right to an autopsy of Baby Everleigh's body.

33. Following a discussion with Jane Doe #2, Daniel signed a paper waiving their autopsy rights, and asked Jane Doe #2 about the timing in which Baby Everleigh's body could be picked up from BWH and prepared for burial.

34. Jane Doe #2 advised Daniel that Baby Everleigh's body would safely be transported to the morgue, at which time Daniel inquired if – given concerns over decomposition of her remains – Baby Everleigh's body would be safe in the morgue for several days while Plaintiffs made arrangements for her funeral and burial.

35. Jane Doe #2 promised and assured Daniel that Baby Everleigh's body would be safe for several days in the morgue.

36. NICU nurses collected Baby Everleigh's memory box, which contained pictures, collages, and keepsakes, such as her baptism water. Plaintiffs were allowed to say their goodbyes. It was the last time Plaintiffs ever saw Baby Everleigh.

37. On August 10, 2020, representatives from the Gillooly Funeral Home, on behalf of Plaintiffs, arrived at BWH to pick up Baby Everleigh so that she could be prepared for a funeral and burial services.

38. Baby Everleigh was not at BWH. Her body, which was supposed to be kept safe and protected by BWH and its employees, was never located.

39. Baby Everleigh is still missing to this day.

**How BWH and the Defendants Lost Baby Everleigh**

40. On the evening of August 6, 2020, after the Ross and McCarthy families departed BWH, Baby Everleigh was transported to the BWH morgue.

41. At all times relevant to the claims in this case, Jon C. Aster was the Interim Chair of Pathology at BWH. The BWH morgue is managed and supervised as part of the Pathology Department.

42. At all times relevant to the claims in this case, Defendant Aster was responsible for management, oversight, administration, compliance, and supervision of the BWH morgue and its employees, including pathologists.

43. At all times relevant to the claims in this case, Defendant Michelle Siciliano was the Technical Operations Manager, Autopsy and Decedent Affairs at the BWH morgue. Defendant Siciliano's job was, in part, to coordinate logistics for receiving bodies at the morgue and distributing them to the appropriate venues, including funeral homes.

44. Nurses Heidi Taylor and Jennifer Conrado were responsible for safeguarding Baby Everleigh and safely bringing her from the 6<sup>th</sup> floor of BWH to the morgue for safekeeping. At all times relevant to the claims in this case, Defendants Conrado and Taylor were supervised by Jane Doe #1, the NICU Supervisor.

45. Defendant Jane Doe #1 was responsible for the supervision of all nurses in the Neonatal Intensive Care Unit (NICU). At all times relevant to the claims in this case, Jane Doe #1 was responsible for supervising and training Defendants Conrado and Taylor, and ensuring that children who passed away in the NICU were safely transported to the morgue and their remains properly logged and stored.

46. On August 6, 2020, Defendants Conrado and Taylor were accompanied to the BWH morgue by a BWH Security Officer. On information and belief, this Security Officer was Katherine Amato.

47. At all times relevant to the claims in this case, Defendant Amato was supervised by Kevin Slattery, the Director of Security.

48. On August 6, 2020, one of Defendant Amato's responsibilities was to accompany Defendants Conrado and Taylor to ensure that Baby Everleigh was safely transported to the morgue and her remains properly logged and stored.

49. At approximately 8:55 pm on August 6, 2020, Defendants Conrado, Taylor, and Amato arrived at the BWH morgue with Baby Everleigh.

50. Defendant Amato opened the outer door to the morgue and noticed that the inner door to the morgue cooler was open. She noted that it should not be open at that time.



51. Defendant Amato noticed a male Transport employee inside of the morgue. That employee was holding a stretcher. On information and belief, that male Transport employee was Defendant Jose Lopes.

52. Defendant Amato observed Defendant Lopes – whom she knew to be a Transport employee – standing inside of the morgue in a position that blocked the location where infant remains are normally kept.

53. Defendant Conrado was holding Baby Everleigh when Defendants Conrado, Taylor, and Amato arrived at the morgue.

54. Defendant Taylor made a hand-written entry on the BWH Morgue Log Book indicating the arrival of Baby Everleigh to the morgue. Defendant Amato observed the entry of Baby Everleigh's name in the Morgue Log Book.

55. Inside the BWH morgue at the time of Baby Everleigh's arrival were at least three BWH employees: (1) Pathologist John Grzyb, (2) Pathologist Jacob Plaisted, and (3) Jose Lopes of Patient Transport.

56. While holding Baby Everleigh, Defendant Conrado asked someone inside of the morgue where Baby Everleigh's remains should be placed. Defendant Conrado believed she was speaking with an employee of the Pathology Department. In reality, she was asking Defendant Lopes, who was employed in Patient Transport.

57. Defendant Lopes replied to Defendant Conrado, "You can put it anywhere."

58. Defendant Conrado again inquired of Defendant Lopes where to place the body, noting this time that she was carrying infant remains. Defendant Lopes again replied, "You can put it anywhere."

59. The direction from Defendant Lopes to Defendant Conrado was overheard by Defendant Amato and Defendant Plaisted.

60. Despite knowing that Defendant Lopes was a Transportation employee and not a member of pathology department, Defendant Amato did not say anything, or interject, or indicate Lopes' true responsibilities to Defendant Conrado or Defendant Taylor.

61. Defendant Plaisted took no action to direct Defendant Conrado where to place the remains of Baby Everleigh.

62. Defendant Grzyb took no action to direct Defendant Conrado where to place the remains of Baby Everleigh.

63. Defendant Conrado entered the morgue and turned to the right, placing Baby Everleigh's remains down on a metal rack.

64. At the time, there were no other human remains – either infant or adult – on the metal rack.

65. The metal rack upon which Defendant Conrado placed Baby Everleigh was not the appropriate or designated place for the delivery of infant remains to the morgue.

66. Defendants Amato, Taylor, and Conrado left the morgue.

67. BWH has a bracelet scanning system to record the location of patients throughout the hospital by scanning a code on the patient's bracelet.

68. Some linens at BWH also have embedded chips that can be scanned by the linen service company.

69. There was no electronic tag system or other procedures in place at BWH to digitally record the delivery of infant remains to the morgue.

70. The only recording system in place at the BWH morgue at all times relevant to this action was a hand-written Morgue Log Book.

71. The next morning, on August 7, 2020, Defendant Grzyb was working inside of the morgue. At approximately 7:52 am, Defendant Grzyb collected linens from a morgue tray and disposed of them in a “soiled linens” receptacle.

72. Upon information and belief, Baby Everleigh was laying on top of the tray that was cleaned by Defendant Grzyb.

73. Baby Everleigh’s body was thrown away with the “soiled linens” from the morgue.

74. At some point after Baby Everleigh was thrown away as “soiled linens,” the linens were transported to a linen servicing company outside of BWH property.

75. No one at BWH realized that Baby Everleigh was missing on August 6, 2020.

76. No one at BWH realized that Baby Everleigh was missing on August 7, 2020.

77. No one at BWH realized that Baby Everleigh was missing on August 8, 2020.

78. No one at BWH realized that Baby Everleigh was missing on August 9, 2020.

79. On the afternoon of August 10, 2020, representatives from the Gillooly Funeral Home arrived at BWH to take custody of the body of Baby Everleigh on behalf of Plaintiffs. They met with Defendant Grzyb and Defendant Plaisted at the BWH morgue.

80. Neither the Gillooly Funeral Home employees, nor Defendants Grzyb and Plaisted, could locate Baby Everleigh anywhere in the morgue.

81. Several hours later, a representative from Gillooly Funeral Home called Plaintiffs and informed them that Baby Everleigh could not be located.

**Brigham and Women's Attempts to Find Baby Everleigh**

82. Four days after Baby Everleigh went missing, BWH began an investigation into her disappearance.

83. The investigation was run by the BWH Security Department, and its director, Defendant Kevin Slattery. Defendant Nieder and Defendant Carey-Mullaney conducted the investigation under the direction of Defendant Slattery.

84. Defendant Slattery spoke to Andrea Taber, Plaintiff McCarthy's mother, on the evening of August 10. He said a meeting would take place between the security department, NICU, and patient advocates and that he would update the family after the meeting.

85. At 10:15 pm on August 10, Defendants Slattery, Dr. Terrie Inder, and Niv Patterson from Patient and Family Services called Andrea Taber. They had no answers to questions asked by the Plaintiffs, but assured Plaintiffs that BWH was "doing everything in [their] power to find answers."

86. On the morning of August 11, Defendants Nieder and Carey-Mullaney spoke to Defendant Grzyb at the morgue. He offered to provide them with assistance in their investigation. Defendants Nieder and Carey-Mullaney departed the morgue without asking Defendant Grzyb any questions.

87. Around 11am that morning, Defendant Slattery and Niv Patterson called Andrea Taber and informed her that Baby Everleigh had been “put in the wrong place” when she was brought to the morgue. They told Ms. Taber that Everleigh was “wrapped in a blanket,” and had been “signed in” to the morgue but was never signed out. They had no further answers to Ms. Taber’s questions.

88. On the afternoon of August 11, 2020, on their own volition, Plaintiffs and their family members contacted the Boston Police Department (“BPD”) to report that the body of their child was missing. Investigators from BPD arrived at BWH around 2:55pm and began their own investigation.

89. Defendant Nieder told BPD investigators that she had already reviewed video footage from the hospital and that “nothing she had reviewed on the camera footage seemed to assist BWH in locating the remains” of Baby Everleigh.

90. BPD relied upon the representations of Defendant Nieder and the BWH Security Department in determining what steps they would take to try to recover Baby Everleigh.

91. On the morning of August 11, 2020 – 5 days after Baby Everleigh’s disappearance and a full day after BWH first learned that she was gone – BWH investigators spoke to NICU Nurse Director Michael Duggan to identify the nursing staff that had taken Baby Everleigh to the morgue.

92. Nursing Director Duggan told investigators that Defendant Conrado had worked the night before and ended her shift at 7am that morning; that she would be back at 7pm that evening; and that the “possibility of her being available to give a statement right away may not be feasible.”

93. Nursing Director Duggan told investigators that Defendant Taylor “may” be reachable because she was not working the previous night and would be coming on shift later that evening.

94. Ultimately, Defendant Taylor was not made available to speak with BPD investigators. BPD was informed by BWH security that Defendant Taylor was “not answering calls from the hospital.”

95. Despite Defendant Conrado being the last known person to hold Baby Everleigh, BWH investigators did not speak to her about the disappearance of Baby Everleigh until the afternoon of August 11, 2020 – 24 hours after BWH first realized Baby Everleigh was missing.

96. In a phone conversation with BWH investigators, Defendant Conrado confirmed that an employee of BWH working inside of the morgue had told her “you can put that anywhere” when she asked about the placement of Baby Everleigh inside of the morgue. Defendant Conrado confirmed that she placed Baby Everleigh on a tray in the morgue area.

97. Defendant Conrado was never made available to speak with BPD investigators who were working to find Baby Everleigh. Instead, they were informed of her “initial statement” to BWH investigators.

98. BPD investigators began to review clips of the hospital footage around the area of the morgue from August 6, 2020. They inspected the BWH morgue itself, and then reviewed additional video provided by BWH.

99. BPD investigators interviewed Defendant Grzyb on the afternoon of August 11, 2020. At the time of the interview, Defendant Grzyb was well aware that Baby Everleigh was missing.

100. In his interview with BPD investigators, Grzyb said that pathologists were “very careful” about handling hazardous waste and soiled linens in the morgue. He was adamant to BPD detectives that he did not observe, nor remove any soiled linens when he entered the morgue cooler for work on Friday, August 7, 2020.

101. BPD investigators traced the soiled linen containers from BWH and identified the likely location of the soiled linens from BWH.

102. BPD investigators also contacted the trash company that collected medical waste and trash from the linen company servicing BWH, as well as the transfer company that collected medical waste that was separated from linens used at BWH.

103. BPD investigators spent eight hours on the morning of August 12, 2020 digging through blood soaked clothing, feces covered linens, and other medical waste at a transfer station searching for Baby Everleigh. No BWH employees or staff participated in this search.

104. On the afternoon of August 12, 2020, BPD investigators were notified by BWH Chief of Police William Barrett that Defendant Grzyb had eventually admitted seeing some linens on a stainless steel tray inside the morgue and disposed of it in the soiled linens container.

105. After this disclosure by BWH, Defendant Nieder provided video to BPD investigators showing Grzyb throwing out linens from the morgue on the morning of August 7, 2020. Upon information and belief, the linens contained Baby Everleigh.

106. After being informed of Grzyb's confession to BWH security, BPD investigators spoke to the linen servicing company and the company that transported waste from the linen company.

107. Detectives from BPD determined that because of the volume of linen coming from BWH and the soiled linen that still remained in the BWH hallways before pickup, it was possible that the linen containing Baby Everleigh might still be able to be recovered.

108. On the evening of August 12, 2020, BPD investigators and employees from the waste transfer company dug through hundreds of pounds of medical waste, desperately searching for Baby Everleigh. After several hours the search was concluded, and Baby Everleigh was not found.

109. No BWH employees or staff participated in this search.

110. On the morning of August 12, 2020 – five days after Baby Everleigh's disappearance and almost two days after BWH first learned she was missing – BWH investigators interviewed Defendant Grzyb.

111. Defendant Grzyb told investigators that on the morning of August 7, 2020, he had not cleaned up any soiled linens and did not clean up the morgue cooler because he "wanted to get all the office work done."

112. Defendant Nieder informed Mr. Grzyb that he was observed on video on the morning of August 7, 2020 leaving the morgue cooler with "something in his right hand, a bundle of sorts." Defendant Grzyb became "more distraught," and told investigators from BWH that he "should have known that those blankets were a baby inside, but that he was moving so fast and thought he was cleaning up after [the pickup of another body]."



113. Defendant Grzyb told investigators that he throws trash and linens away from inside of the morgue cooler “almost every day,” that “sheets and blankets are usually left under decedents or pillows under their heads,” and that “chucks or paperwork are also left behind on the floors too.”

114. Defendant Nieder asked Grzyb how likely it was that he threw away Baby Everleigh in the soiled linen container; Defendant Grzyb said “that seems like the likely scenario.” Defendant Grzyb said that because the prenatal remains were “not left in the right location,” he “knows he threw the blanket away” and must have thought it was a “left-over blanket.”

115. Defendant Grzyb told investigators that “mistakes of other people who have access to the morgue set [off] a chain of events that were unavoidable.” He told investigators that because Baby Everleigh was “wrapped in a blanket” and had “no identifying makers on the outside of the blanket,” he likely threw it away in the soiled linen container.

116. Defendant Grzyb expressed concern to investigators that this incident was going to cause his face to be “plastered on the news.” Defendant Nieder told Defendant Grzyb that news coverage was unlikely, but that the incident would likely lead to “good changes to processes and procedures for the morgue.”

**Sloppy Conditions and Poor Management of the BWH Morgue Were Known Risks  
Prior to the Loss of Baby Everleigh**

117. BWH was aware of problems with the management and conditions of its morgue prior to BWH losing Baby Everleigh.

118. Defendant Grzyb told BWH investigators about the conditions of the morgue and inaction by hospital administrators, including John Doe #1, when they were notified of those problems well before losing Baby Everleigh.

119. Defendant Grzyb told BWH investigators that it was “common practice” for him to “pick up slings, linens, and trash left in the morgue by others who have access in there.”

120. Defendant Grzyb told investigators that the Pathology Department had “filed safety reports and complaints about how other departments leave their work space.” Grzyb told investigators that he had “learned to work with other departments’ mistakes.”

121. Defendant Grzyb told investigators that he had “spoken to his boss, Michelle, about these complaints.” Upon information and belief, “Michelle” is Defendant Michelle Siciliano, who was Technical Operations Manager, Autopsy and Decedent Affairs.

122. A transport employee at BWH who was interviewed by investigators told them that she remembered working on August 6, 2020 and saw the condition of the morgue cooler that morning. She told investigators that “she remembers the morgue cooler being a mess and with linens [sic].”

123. Defendant Plaisted, who is also a Pathologist at the BWH morgue, previously filed complaints to BWH supervisors about the conditions of the BWH morgue.

124. Upon information and belief, Defendants MGB, BWH, Jon Aster, John Doe #1, and Michelle Siciliano took no action and failed to address the written and verbal complaints about the morgue made by the BWH pathologists.

125. After the disappearance of Baby Everleigh, BWH began posting job listings for a “morgue attendant” and a “senior morgue specialist.” Both postings contain job descriptions that include the type of oversight that would have prevented Baby Everleigh’s disappearance.

126. BWH was aware of the issues at the morgue and chose not to hire for these roles prior to Baby Everleigh's disappearance for reasons related to the entrepreneurial and business operations of MGB and the BWH.

**COUNT I**  
**(MGB & BWH - BREACH OF CONTRACT)**

127. The Plaintiffs incorporate all of the foregoing paragraphs of the complaint as if set forth in full below.

128. Plaintiffs and MGB/BWH signed an agreement whereby the hospital, its staff, and its employees would care for Baby Everleigh. This care included safeguarding Baby Everleigh's body and returning it to the family for burial after her passing.

129. The Plaintiffs fulfilled all of their obligations under the contract between the parties.

130. The contract was supported by valid consideration.

131. By their actions, and inaction, the Defendants have breached the contract.

132. The Defendants' breach is material and goes to the heart of the contract between the parties.

133. The Defendants' breach has caused injury, damage and harm to the Plaintiffs.

**COUNT II**  
**(MGB & BWH - BREACH OF THE COVENANT OF GOOD FAITH AND  
FAIR DEALING)**

134. The Plaintiffs incorporate all of the foregoing paragraphs of this complaint as if set forth in full below.

135. The contract between the Plaintiffs and Defendants MGB and BWH includes an implied covenant of good faith and fair dealing.

136. The covenant requires that neither party act to deprive the other party of the fruits and benefits of the contract.

137. MGB and BWH promise each of their patients “superior care that is patient- and family-centered, accessible, and equitable.”

138. In accepting the care and treatment of Baby Everleigh, MGB and BWH accepted responsibility to live up to that promise which was supported by the consideration they received in the form of the fees they charged to the Plaintiffs and their insurance carriers.

139. By its actions, and inaction, the Defendants failed to abide by the terms of this agreement and have breached the covenant of good faith and fair dealing.

140. The Defendants’ breach has caused injury, damage, and harm to the plaintiff.

### **COUNT III**

**(DEFENDANTS TAYLOR, CONRADO, AMATO, JANE DOE #1, JANE DOE #2, JOHN DOE #1, LOPES, GRZYB, PLAISTED, SICILIANO ASTER, SLATTERY, CAREY-MULLANEY & NEIDER ONLY – NEGLIGENCE)**

141. The Plaintiffs incorporate all the foregoing paragraphs of this complaint as if set forth in full below.

142. The Defendants owed the Plaintiffs a duty of care in transportation, handling, and safeguarding of Baby Everleigh.

143. The Defendants failed to use reasonable care by mishandling Baby Everleigh and throwing her body away like trash.

144. The Defendants’ failure to use reasonable care caused injury, damage, and harm to the Plaintiffs.

**COUNT IV**  
**(MGB & BWH - VIOLATION OF M.G.L. c. 93A, § 9)**

145. The Plaintiffs incorporate all the foregoing paragraphs of this complaint as if set forth in full below.

146. On or about December 22, 2021, the Plaintiffs, through counsel, delivered a demand letter to the Defendants containing the specific allegations of conduct by the Defendants that constituted violations of Massachusetts General Laws c. 93A, § 9. (*See Exhibit A*, Chapter 93A Demand Letter).

147. Plaintiffs' demand letter satisfied the required written notice of claim provision of Massachusetts General Laws c. 93A, §9.

148. As outlined above and in Plaintiffs' Chapter 93A Demand Letter, the Defendants were engaged in trade and commerce.

149. As outlined above and in Plaintiffs' Chapter 93A Demand Letter, the Defendants held themselves out as the "most trusted name in women's health," and promised to provide "superior care that is patient- and family-centered, accessible, and equitable."

150. As outlined above and in Plaintiffs' Chapter 93A Demand Letter, the Defendants' actions were unfair and deceptive.

151. As outlined above and in Plaintiffs' Chapter 93A Demand Letter, the Defendants acted willfully and intentionally.

152. As outlined above and in Plaintiffs' Chapter 93A Demand Letter, the Defendants' actions occurred primarily and substantially in Massachusetts.

153. As outlined above and in Plaintiffs' Chapter 93A Demand Letter, as a result of the Defendants' unfair and deceptive actions, the Plaintiffs have been injured, harmed, and damaged to an extent that will be proven at trial.

**COUNT V**

**(DEFENDANTS TAYLOR, CONRADO, AMATO, JANE DOE #1, JANE DOE #2, JOHN DOE #1, LOPES, GRZYB, PLAISTED, SICILIANO ASTER, SLATTERY, CAREY-MULLANEY & NEIDER ONLY - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)**

154. The Plaintiffs incorporate all of the foregoing paragraphs of this complaint as if set forth in full below.

155. The Defendants knew, or should have known, that their conduct would cause emotional distress.

156. The conduct of the Defendants was extreme and outrageous.

157. The conduct of the Defendants caused emotional distress to the Plaintiffs.

158. The emotional distress suffered by the Plaintiffs as a result of the conduct of the Defendants was severe.

159. As a result of the Defendants' actions, the Plaintiffs have been injured, harmed, and damaged to an extent that will be proven at trial.

**COUNT VI**

**(DEFENDANTS TAYLOR, CONRADO, AMATO, JANE DOE #1; JANE DOE #2, JOHN DOE #1, LOPES, GRZYB, PLAISTED, SICILIANO ASTER, SLATTERY, CAREY-MULLANEY & NEIDER ONLY - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS)**

160. The Plaintiffs incorporate all of the foregoing paragraphs of this complaint as if set forth in full below.

161. As a direct and proximate result of the Defendants' negligence, Plaintiffs have suffered severe emotional distress and anguish, and have suffered physical

manifestations and harms as a result of the severe and profound emotional distress inflicted upon them by Defendants' negligence.

162. A reasonable person in the same position of Plaintiffs would have suffered severe and profound emotional distress due to Defendants' negligence.

#### **COUNT VII**

**(DEFENDANTS TAYLOR, CONRADO, AMATO, JANE DOE #1, JANE DOE #2, JOHN DOE #1, LOPES, GRZYB, PLAISTED, SICILIANO ASTER, SLATTERY, CAREY-MULLANEY & NEIDER ONLY - TORTIOUS INTERFERENCE WITH HUMAN REMAINS)**

163. The Plaintiffs incorporate all of the foregoing paragraphs of this complaint as if set forth in full below.

164. The Defendants were responsible for caring for the human remains of Baby Everleigh.

165. The Plaintiffs were entitled to a peaceful disposition of Baby Everleigh.

166. The conduct of the Defendants was intentional, reckless, or negligent.

167. The conduct of the Defendants prevented the proper internment or cremation of Baby Everleigh.

168. As a result of the Defendants' actions, the Plaintiffs have been injured, harmed, and damaged to an extent that will be proven at trial.

#### **JURY DEMAND**

The Plaintiffs demand a jury trial on all claims and issues triable by jury.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs hereby request that the Court enter the following relief:

- I. Enter judgment for the Plaintiffs on all counts of this Complaint.

- II. Order the Defendants to pay damages, legal fees, costs, and expenses as appropriate, including double or treble damages under G.L. c. 93A.
- III. Award the Plaintiffs such other and further relief as is just and appropriate in the circumstances.

Respectfully Submitted  
For the Plaintiffs



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