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CASE NO: A-20-814210-C
Department 11

DISTRICT COURT

CLARK COUNTY, NEVADA

LAUREN NICKLES, individually and as
Natural Parent and Guardian of JAYDEN
NICKLES, a Minor, and BRANDON
NICKLES, individually, and as Natural Parent
and Guardian of JAYDEN NICKLES, a
Minor;

Plaintiffs,

v.

SUNRISE HOSPITAL AND MEDICAL
CENTER, LLC d/b/a SUNRISE HOSPITAL
AND MEDICAL CENTER; JAMES
ANDRUS, MD, individually; PARVIN
DOROSTKAR, MD, individually; POKROY
MEDICAL GROUP OF NEVADA LTD d/b/a
PEDIATRIX MEDICAL GROUP OF
NEVADA; DOE NURSE I; DOE NURSE II;
DOE CHARGE NURSE I; DOE CHARGE
NURSE II; and DOES 1 through 100,
inclusive; and ROE CORPORATIONS 1
through 100, inclusive,

Defendants.

CASE NO.:
DEPT. NO.:

COMPLAINT

Arbitration Exemption: Medical Malpractice

COME NOW, Plaintiffs, LAUREN NICKLES, individually, and as Natural Parent and
Guardian of JAYDEN NICKLES, a Minor, and BRANDON NICKLES, individually, and as
Natural Parent and Guardian of JAYDEN NICKLES, a Minor; (hereinafter referred to as
"Plaintiffs"), by and through their attorney of record, JOHN F. BEMIS, ESQ., of the law firm of

1 ATKINSON WATKINS & HOFFMANN, LLP, and hereby complain and allege as follows:

2 **STATEMENT OF FACTS**

- 3 1. Plaintiff JAYDEN NICKLES is a minor born on March 27, 2019, and is and was at all
4 relevant times hereto, a resident of the State of Nevada, County of Clark, City of Las Vegas.
- 5 2. Plaintiff LAUREN NICKLES is the Natural Mother and Natural Guardian of JAYDEN
6 NICKLES. She is, and was at all relevant times hereto, a resident of the State of Nevada,
7 County of Clark, City of Las Vegas.
- 8 3. Plaintiff BRANDON NICKLES is the Natural Father and Natural Guardian of JAYDEN
9 NICKLES. He is, and was at all relevant times hereto, a resident of the State of Nevada,
10 County of Clark, City of Las Vegas.
- 11 4. Defendant, SUNRISE HOSPITAL AND MEDICAL CENTER, LLC (hereinafter referred
12 to as SUNRISE) is, and was at all times relevant hereto, a non-profit Corporation and upon
13 information and belief, is and was licensed to do business in Nevada as a medical care
14 provider pursuant to NRS Chapter 449, and is vicariously liable for its employees, agents
15 and/or servants and their actions.
- 16 5. Defendant, JAMES ANDRUS, MD (hereinafter referred to as ANDRUS), is, and was at all
17 times relevant hereto, a resident of the State of Nevada, and a physician licensed to practice
18 medicine in the State of Nevada pursuant to NRS Chapters 630 and 449.
- 19 6. Defendant, PARVIN DOROSTKAR, MD (hereinafter referred to as DOROSTKAR), is,
20 and was at all times relevant hereto, a resident of the State of Nevada, and a physician
21 licensed to practice medicine in the State of Nevada pursuant to NRS Chapters 630 and 449.
- 22 7. Defendant, POKROY MEDICAL GROUP OF NEVADA LTD d/b/a PEDIATRIX
23 MEDICAL GROUP OF NEVADA (hereinafter referred to as PEDIATRIX), is, and was at
24 all times relevant hereto, a domestic corporation, licensed to practice medicine in the State
25 of Nevada pursuant to NRS 449.
- 26 8. Upon information and belief, Defendants ANDRUS and DOROSTKAR were employees
27 and/or agents of PEDIATRIX.
- 28 9. DOE Nurse I is believed to be a Registered Nurse, licensed to practice nursing in the state

1 of Nevada, and was an employee, contractor, agent, assignee and/or representative of
2 Defendant SUNRISE, and was a resident of Clark County, Nevada.

3 10. DOE Nurse II is believed to be a Registered Nurse, licensed to practice nursing in the state
4 of Nevada, and was an employee, contractor, agent, assignee and/or representative of
5 Defendant SUNRISE, and was a resident of Clark County, Nevada.

6 11. DOE Charge Nurse I is believed to be a Registered Nurse, licensed to practice nursing in
7 the state of Nevada, and was an employee, contractor, agent, assignee and/or representative
8 of Defendant SUNRISE, and was a resident of Clark County, Nevada.

9 12. DOE Charge Nurse II is believed to be a Registered Nurse, licensed to practice nursing in
10 the state of Nevada, and was an employee, contractor, agent, assignee and/or representative
11 of Defendant SUNRISE, and was a resident of Clark County, Nevada.

12 13. At all relevant times herein, Defendants, Does 1 through 100, inclusive, were and are now
13 physicians, surgeons, registered nurses, licensed practical nurses, pharmacists, registered
14 technicians, certified nursing assistants, certified technicians, attendants, physicians
15 assistants or paramedical personnel holding themselves out as duly licensed to practice their
16 professions in the State of Nevada; the true names and capacities, whether individual,
17 corporate, associate, or otherwise of Defendants DOES I through X, inclusive, are presently
18 unknown to Plaintiffs, who therefor sues those Defendants by such fictitious names,
19 Plaintiffs are informed and believe that thereupon alleges that each of the Defendants sued
20 herein as DOES 1 through 100 are responsible in some manner for the events and
21 happenings herein referred to, which thereby proximately caused the injuries and damages
22 to Plaintiffs as alleged herein, more specifically; Defendants DOES 1 through 100 were
23 involved in the care and treatment of JAYDEN NICKLES to include but not limited to:
24 failure to properly train medical staff; failure to properly supervise medical staff; failure to
25 ensure competent physicians and nurses were providing care; failure to properly monitor
26 JAYDEN NICKLES; failure to properly communicate with physicians and/or nursing
27 regarding patient's condition; failure to properly implement and/or follow the proper
28 policy/procedure/protocol; failure to follow the chain of command to procure proper and

1 timely medical intervention for JAYDEN NICKLES; involved in the abandonment and
2 neglect of JAYDEN NICKLES while in Sunrise Hospital; failure to act as patient advocates,
3 during the Sunrise Hospital stay to include but not limited to March 27, 2019, through
4 August 8, 2019, which thereby proximately and/or legally caused injuries and damages to
5 Plaintiffs as alleged herein; that when the true names and capacities of such Defendants
6 become known, Plaintiffs will seek leave to amend this complain to insert the true identities
7 and capacities, together with proper charges and allegations.

8 14. At all relevant times herein, Defendants, ROE CORPORATIONS, 1 through 100, were and
9 now are corporations, firms, partnerships, associations, nursing agencies or other legal
10 entities involving the care, treatment, diagnosis, surgery and/or other provision of medical
11 care to Plaintiffs herein; that the true identities or capacities whether individual, corporate,
12 associate or other legal entities involving the care, treatment, diagnosis, surgery and/or other
13 provision of medical care to Plaintiff herein; that the true names, identities or capacities
14 whether individua, corporate, associate or otherwise of Defendants, ROE
15 CORPORATIONS, 1 through 100 are responsible in some manner for the events and
16 happenings herein referred to, which thereby proximately caused the injuries and damages
17 to Plaintiff alleged herein; more specifically, ROE CORPORATIONS, 1 through 100,
18 allowed inadequate practices of documentation; failure to properly train medical staff;
19 failure to properly supervise medical staff; failure to ensure competent physicians and
20 nurses were providing care; failure to properly monitor JAYDEN NICKLES; failure to
21 properly communicate with physicians and/or nursing regarding patient's condition; failure
22 to properly implement and/or follow the proper policy/procedure/protocol; failure to follow
23 the chain of command to procure proper and timely medical intervention for JAYDEN
24 NICKLES; involved in the abandonment and neglect of JAYDEN NICKLES while in
25 Sunrise Hospital; failure to act as patient advocates, during the Sunrise Hospital stay to
26 include but not limited to March 27, 2019, through August 8, 2019, which thereby
27 proximately and/or legally caused injuries and damages to Plaintiffs as alleged herein; that
28 when the true names and capacities of such Defendants become known, Plaintiffs will seek

1 leave to amend this complain to insert the true identities and capacities, together with proper
2 charges and allegations.

3 15. Defendant, SUNRISE, has a nondelegable duty to Plaintiffs, arising from their special
4 relationship with physicians.

5 16. Defendant, SUNRISE, is vicariously liable for its employees, agents and/or servants and
6 their actions, including but not limited to, physicians, surgeons, registered nurses, licensed
7 practical nurses, pharmacists, registered technicians, certified nursing assistants, certified
8 technicians, attendants, physicians assistants or paramedical personnel at Sunrise Hospital,
9 who were treating JAYDEN NICKLES.

10 17. At all times relevant herein, Defendants, and each of them, were the agents, ostensible
11 agents, servants, employees, employers, partners, co-owners and/or joint ventures of each
12 other and of their co-defendants, and were acting within the course, scope and purpose of
13 their employment, agency, ownership and/or joint ventures and be reason of such
14 relationships the Defendants, and each of them, are vicariously liable, jointly and severally
15 responsible and liable for the acts and/or omissions of their co-Defendants.

16 **GENERAL ALLEGATIONS**

17 18. Plaintiffs' claims arise out of the errors and omissions of Defendant SUNRISE, and/or their
18 employees, agents and/or servants, including but not limited to its nursing staff, Doe Nurse
19 I, Doe Nurse II, Doe Charge Nurse I, Doe Charge Nurse II, Defendant ANDRUS, Defendant
20 DOROSTKAR, and their failure to properly monitor, inform, diagnose, document, timely
21 intervene, use the chain of command, monitor critical labs, follow proper guidelines,
22 intubate JAYDEN NICKLES, resulting in cardiac arrest leading to catastrophic and
23 permanent injuries.

24 19. Plaintiffs' claims arise out of the errors and omissions of Defendant DOROSTKAR, and
25 her failure to properly monitor, inform, diagnose, document, timely intervene, use the chain
26 of command, monitor critical labs, follow proper guidelines, intubate JAYDEN NICKLES,
27 resulting in cardiac arrest leading to catastrophic and permanent injuries.

28 20. Plaintiffs' claims arise out of the errors and omissions of Defendant ANDRUS, and his

1 failure to properly monitor, inform, diagnose, document, timely intervene, use the chain of
2 command, monitor critical labs, follow proper guidelines, intubate JAYDEN NICKLES,
3 resulting in cardiac arrest leading to catastrophic and permanent injuries.

4 21. JAYDEN NICKLES was born on March 27, 2019, at 32.5 weeks gestation.

5 22. JAYDEN NICKLES was born with heart valve defect that required surgical intervention after
6 birth.

7 23. JAYDEN NICKLES underwent surgical procedures on April 1, 2019, May 3, 2019, and
8 May 10, 2019.

9 24. Following the May 10, 2019, procedure, JAYDEN NICKLES was intubated.

10 25. On May 15, 2019, JAYDEN NICKLES was extubated at approximately 1500.

11 26. Beginning at 1609 on May 15, 2019, JAYDEN NICKLES' laboratory results showed
12 metabolic acidosis and critical lactate levels.

13 27. On May 15, 2019, at 1609, 1700, 1800, 1900, and 2015, JAYDEN NICKLES' laboratory
14 results showed critical values requiring immediate attention.

15 28. On May 15, 2019, SUNRISE nursing staff contacted Defendant DOROSTKAR at 1609 and
16 1700 regarding the critical lab values. Defendant DOROSTKAR did not properly intervene.

17 29. On May 15, 2019, SUNRISE nursing staff contacted Defendant ANDRUS at 1800, 1900
18 and 2015 regarding the critical lab values. Defendant ANDRUS did not properly intervene.

19 30. On May 15, 2019, SUNRISE nursing staff failed to utilize the chain of command to ensure
20 the health and safety of JAYDEN NICKLES.

21 31. On May 15, 2019, SUNRISE nursing staff failed to ensure that JAYDEN NICKLES was
22 intubated prior to his code blue.

23 32. On May 15, 2019, Defendant DOROSTKAR failed to ensure that JAYDEN NICKLES was
24 intubated after receiving the 1609 and 1700 laboratory results.

25 33. On May 15, 2019, Defendant ANDRUS failed to ensure that JAYDEN NICKLES was
26 intubated after receiving the 1609, 1700, 1800, 1900, and 2015 laboratory results.

27 34. On May 15, 2019, JAYDEN NICKLES went into cardiac arrest at 2113. A code blue was
28 initiated.

- 1 35. The May 15, 2019, code was terminated due to its length and JAYDEN NICKLES' low
2 oxygen saturations.
- 3 36. Upon termination of the code, JAYDEN NICKLES began spontaneously breathing with a
4 palpable pulse.
- 5 37. CPR was reinstated and Dr. Lehoux performed ECMO cannulation. The surgery began on
6 May 15, 2019 and was finalized in the early morning of May 16, 2019.
- 7 38. JAYDEN NICKLES suffered catastrophic injuries, including brain injuries, as a result of
8 the prolonged code.
- 9 39. Defendant DOROSTKAR deviated from the acceptable standard of care by failing to
10 properly and adequately monitor the condition of JAYDEN NICKLES by failing to properly
11 evaluate and respond to critical lab values including metabolic acidosis and rising lactate
12 levels, by failing to address JAYDEN NICKLES critical, deteriorating condition and by
13 failing to intubate JAYDEN NICKLES. These failures caused catastrophic brain injuries
14 and other injuries to JAYDEN NICKLES. See Declaration of Anthony Chang, MD,
15 attached hereto as **Exhibit "1"**.
- 16 40. At all times relevant herein, Defendant DOROSTKAR was aware of the consequences of
17 inadequate response to JAYDEN NICKLES' critical lab values and did nothing to avoid
18 the devastating consequences in conscious disregard for JAYDEN NICKLES' health, safety
19 and wellness.
- 20 41. Defendant ANDRUS deviated from the acceptable standard of care by failing to properly
21 and adequately monitor the condition of JAYDEN NICKLES by failing to properly evaluate
22 and respond to critical lab values including metabolic acidosis and rising lactate levels, by
23 failing to address JAYDEN NICKLES critical, deteriorating condition and by failing to
24 intubate JAYDEN NICKLES. These failures caused catastrophic brain injuries and other
25 injuries to JAYDEN NICKLES. See Declaration of Anthony Chang, MD, attached hereto
26 as Exhibit "1".
- 27 42. At all times relevant herein, Defendant ANDRUS was aware of the consequences of
28 inadequate response to JAYDEN NICKLES' critical lab values and did nothing to avoid

1 the devastating consequences in conscious disregard for JAYDEN NICKLES' health, safety
2 and wellness.

3 43. Defendant SUNRISE, through its nurses/agents/employees/physicians deviated from the
4 acceptable standard of care by failing to properly and adequately monitor the condition of
5 JAYDEN NICKLES by failing to properly evaluate and respond to critical lab values
6 including metabolic acidosis and rising lactate levels, by failing to address JAYDEN
7 NICKLES critical, deteriorating condition, by failing to intubate JAYDEN NICKLES,
8 failing to invoke the chain of command, failing to adhere to the policies, procedures and
9 protocols and failing to initiate appropriate nursing intervention. These failures caused
10 catastrophic brain injuries and other injuries to JAYDEN NICKLES. See Declaration of
11 M. Terese Verklan, PhD, CCNS, RNC, FAAN, attached hereto as **Exhibit "2"**.

12 **FIRST CAUSE OF ACTION**

13 **PROFESSIONAL NEGLIGENCE (Against Defendant ANDRUS)**

14 44. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 43 of this
15 Complaint, and make them a part of the instant cause of action as though fully set forth
16 herein

17 45. Defendant ANDRUS owed a duty of care to JAYDEN NICKLES to render medical care
18 and treatment in a professional manner consistent with the standard of care prescribed in
19 his medical field.

20 46. Defendant ANDRUS fell below the standard of care by falling below his respective
21 professional degree of learning, skill and exercise of good judgment.

22 47. Defendant ANDRUS fell below the standard of care by, among other things, failing to
23 properly and adequately monitor the condition of JAYDEN NICKLES by failing to properly
24 evaluate and respond to escalating critical lab values including metabolic acidosis and rising
25 lactate levels, by failing to address JAYDEN NICKLES critical, deteriorating condition and
26 by failing to intubate JAYDEN NICKLES.

27 48. As a direct result of Defendant ANDRUS acts and omissions, JAYDEN NICKLES suffered
28 a prolonged cardiac arrest resulting in permanent and catastrophic injuries to include but

not limited to permanent brain injuries.

49. As a direct and proximate result of Defendant ANDRUS' negligence, Plaintiffs endured extreme pain, suffering and emotional distress.

50. As a direct and proximate result of Defendant ANDRUS' negligence, Plaintiffs incurred medical expenses and will incur lifelong medical expenses, the full extent of said expenses are not known to Plaintiffs and leave is requested to this Court to amend this Complaint to conform to proof at the time of trial; Plaintiff has suffered general damages in an amount that is in excess of \$15,000.

51. As a further direct and proximate result of Defendant ANDRUS' negligence, JAYDEN NICKLES will incur future loss of income in an amount in excess of \$15,000.

52. As a further direct and proximate result of Defendant ANDRUS' negligence, JAYDEN NICKLES will require continuous care for his activities of daily living, for his lifetime.

53. As a further direct and proximate result of Defendant ANDRUS' negligence, Plaintiffs were forced to retain the services of attorneys in this matter; and therefore, seek reimbursement for attorneys' fees and costs.

54. In support of their claims against Defendant ANDRUS, Plaintiff has attached the Declaration of Anthony Chang, MD, attached hereto as Exhibit 1.

SECOND CAUSE OF ACTION

PROFESSIONAL NEGLIGENCE (Against Defendant DOROSTKAR)

55. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 54 of this Complaint, and make them a part of the instant cause of action as though fully set forth herein

56. Defendant DOROSTKAR owed a duty of care to JAYDEN NICKLES to render medical care and treatment in a professional manner consistent with the standard of care prescribed in her medical field.

57. Defendant DOROSTKAR fell below the standard of care by falling below her respective professional degree of learning, skill and exercise of good judgment.

58. Defendant DOROSTKAR fell below the standard of care by, among other things, failing to

properly and adequately monitor the condition of JAYDEN NICKLES by failing to properly evaluate and respond to escalating critical lab values including metabolic acidosis and rising lactate levels, by failing to address JAYDEN NICKLES critical, deteriorating condition and by failing to intubate JAYDEN NICKLES.

59. As a direct result of Defendant DOROSTKAR acts and omissions, JAYDEN NICKLES suffered a prolonged cardiac arrest resulting in permanent and catastrophic injuries to include but not limited to permanent brain injuries.

60. As a direct and proximate result of Defendant DOROSTKAR's negligence, Plaintiffs endured extreme pain, suffering and emotional distress.

61. As a direct and proximate result of Defendant DOROSTKAR's negligence, Plaintiffs incurred medical expenses and will incur lifelong medical expenses, the full extent of said expenses are not known to Plaintiffs and leave is requested to this Court to amend this Complaint to conform to proof at the time of trial; Plaintiff has suffered general damages in an amount that is in excess of \$15,000.

62. As a further direct and proximate result of Defendant DOROSTKAR's negligence, JAYDEN NICKLES will incur future loss of income in an amount in excess of \$15,000.

63. As a further direct and proximate result of Defendant DOROSTKAR's negligence, JAYDEN NICKLES will require continuous care for his activities of daily living, for his lifetime.

64. As a further direct and proximate result of Defendant DOROSTKAR's negligence, Plaintiffs were forced to retain the services of attorneys in this matter; and therefore, seek reimbursement for attorneys' fees and costs.

65. In support of their claims against Defendant DOROSTKAR, Plaintiff has attached the Declaration of Anthony Chang, MD, attached hereto as Exhibit 1.

THIRD CAUSE OF ACTION

PROFESSIONAL NEGLIGENCE (Against Defendant SUNRISE)

66. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 65 of this Complaint, and make them a part of the instant cause of action as though fully set forth

herein

67. Defendant SUNRISE, its nurses/agents/employees/physicians owed a duty of care to JAYDEN NICKLES to render medical care and treatment in a professional manner consistent with the standard of care prescribed in their medical field.

68. Defendant SUNRISE, its nurses/agents/employees/physicians fell below the standard of care by falling below its respective professional degree of learning, skill and exercise of good judgment.

69. Defendant SUNRISE, its nurses/agents/employees/physicians fell below the standard of care by, among other things, care by failing to properly and adequately monitor the condition of JAYDEN NICKLES by failing to properly evaluate and respond to critical lab values including metabolic acidosis and rising lactate levels, by failing to address JAYDEN NICKLES critical, deteriorating condition, by failing to intubate JAYDEN NICKLES, failing to invoke the chain of command, failing to adhere to the policies, procedures and protocols and failing to initiate appropriate nursing intervention.

70. As a direct and proximate result of Defendant SUNRISE's negligence, Plaintiffs endured extreme pain, suffering and emotional distress.

71. As a direct and proximate result of Defendant SUNRISE's negligence, Plaintiffs incurred medical expenses and will incur lifelong medical expenses, the full extent of said expenses are not known to Plaintiffs and leave is requested to this Court to amend this Complaint to conform to proof at the time of trial; Plaintiff has suffered general damages in an amount that is in excess of \$15,000.

72. As a further direct and proximate result of Defendant SUNRISE's negligence, JAYDEN NICKLES will incur future loss of income in an amount in excess of \$15,000.

73. As a further direct and proximate result of Defendant SUNRISE's negligence, JAYDEN NICKLES will require continuous care for his activities of daily living, for his lifetime.

74. As a further direct and proximate result of Defendant SUNRISE's negligence, Plaintiffs were forced to retain the services of attorneys in this matter; and therefore, seek reimbursement for attorneys' fees and costs.

1 75. In support of their claims against Defendant SUNRISE, Plaintiff has attached the
2 Declaration of M. Terese Verklan, PhD, CCNS, RNC, FAAN, attached hereto as Exhibit 2.

3 **FOURTH CAUSE OF ACTION**

4 **VICARIOUS LIABILITY/RESPONDEAT SUPERIOR (Against Defendant SUNRISE)**

5 76. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 75 of this
6 Complaint, and make them a part of the instant cause of action as though fully set forth
7 herein

8 77. At all times relevant herein, all physicians, surgeons, registered nurses, licensed practical
9 nurses, pharmacists, registered technicians, certified nursing assistants, certified
10 technicians, attendants, physicians assistants or paramedical personnel at Sunrise Hospital,
11 who were treating JAYDEN NICKLES, including but not limited to, Defendant
12 DOROSTKAR, Defendant ANDRUS, Doe Nurse I, Doe Nurse II, Doe Charge Nurse I, Doe
13 Charge Nurse II, were the agents, servants or employees of Defendant SUNRISE, and at all
14 times herein mentioned, were acting within the scope of employment with the knowledge,
15 permission and consent of their employer(s), Defendant SUNRISE. Therefore, employer(s)
16 are responsible and liable for all of its employee/servant/agent's negligent conduct set forth
17 herein under the theory of respondeat superior

18 78. As a direct and proximate result of Defendants' negligence, Plaintiffs endured extreme pain,
19 suffering and emotional distress.

20 79. As a direct and proximate result of Defendants' negligence, Plaintiffs incurred medical
21 expenses and will incur lifelong medical expenses, the full extent of said expenses are not
22 known to Plaintiffs and leave is requested to this Court to amend this Complaint to conform
23 to proof at the time of trial; Plaintiff has suffered general damages in an amount that is in
24 excess of \$15,000.

25 80. As a further direct and proximate result of Defendants' negligence, JAYDEN NICKLES
26 will incur future loss of income in an amount in excess of \$15,000.

27 81. As a further direct and proximate result of Defendants' negligence, JAYDEN NICKLES
28 will require continuous care for his activities of daily living, for his lifetime.

1 82. As a further direct and proximate result of Defendants' negligence, Plaintiffs were forced
2 to retain the services of attorneys in this matter; and therefore, seek reimbursement for
3 attorneys' fees and costs.

4 **FIFTH CAUSE OF ACTION**

5 **VICARIOUS LIABILITY/RESPONDEAT SUPERIOR (Against Defendant PEDIATRIX)**

6 83. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 82 of this
7 Complaint, and make them a part of the instant cause of action as though fully set forth
8 herein

9 84. At all times relevant herein, all physicians, surgeons, and physicians assistants at Sunrise
10 Hospital, who were treating JAYDEN NICKLES, including but not limited to, Defendant
11 DOROSTKAR, and Defendant ANDRUS were the agents, servants or employees of
12 Defendant PEDIATRIX, and at all times herein mentioned, were acting within the scope of
13 employment with the knowledge, permission and consent of their employer(s), Defendant
14 PEDIATRIX. Therefore, employer(s) are responsible and liable for all of its
15 employee/servant/agent's negligent conduct set forth herein under the theory of respondeat
16 superior

17 85. As a direct and proximate result of Defendants' negligence, Plaintiffs endured extreme pain,
18 suffering and emotional distress.

19 86. As a direct and proximate result of Defendants' negligence, Plaintiffs incurred medical
20 expenses and will incur lifelong medical expenses, the full extent of said expenses are not
21 known to Plaintiffs and leave is requested to this Court to amend this Complaint to conform
22 to proof at the time of trial; Plaintiff has suffered general damages in an amount that is in
23 excess of \$15,000.

24 87. As a further direct and proximate result of Defendants' negligence, JAYDEN NICKLES
25 will incur future loss of income in an amount in excess of \$15,000.

26 88. As a further direct and proximate result of Defendants' negligence, JAYDEN NICKLES
27 will require continuous care for his activities of daily living, for his lifetime.

28 89. As a further direct and proximate result of Defendants' negligence, Plaintiffs were forced

1 to retain the services of attorneys in this matter; and therefore, seek reimbursement for
2 attorneys' fees and costs.

3 **SIXTH CAUSE OF ACTION**

4 **VULNERABLE PERSON NEGLECT (Against Defendant SUNRISE)**

5 90. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 89 of this
6 Complaint and make them a part of the instant cause of action as though fully set forth
7 herein.

8 91. At all times relevant herein, JAYDEN NICKLES, was a "vulnerable" person, per NRS §
9 41.1395. See Exhibit 1.

10 92. At all times relevant hereto, Defendant SUNRISE failed to properly train its staff related to
11 the policies and procedures relevant to critical lab values and chain of command.

12 93. On May 15, 2019, JAYDEN NICKLES was noted to have critical values requiring
13 immediate intubation beginning at 1609.

14 94. On May 15, 2019, nursing staff at Sunrise Hospital made numerous attempts to contact
15 Defendant DOROSTKAR and Defendant ANDRUS from 1609 up until the time he coded
16 at 2113.

17 95. On May 15, 2019, there was no appropriate response to the critical values reported by
18 nursing staff.

19 96. On May 15, 2019, there was no further action done by nursing staff to ensure the health and
20 safety of JAYDEN NICKLES.

21 97. At all times material hereto, Defendant SUNRISE failed to provide services within the
22 scope of its responsibility/obligation, which were necessary to maintain the physical health
23 of JAYDEN NICKLES.

24 98. The repeated inaction of Defendant SUNRISE constituted "neglect" as defined by NRS §
25 41.1395(4)(c).

26 99. As a direct and proximate result of the aforesaid neglectful conduct of Defendant SUNRISE,
27 JAYDEN NICKLES was deprived oxygen for a significant period of time and endured a
28 catastrophic brain injury.

100. As a proximate result of the neglect of Defendant SUNRISE, JAYDEN NICKLES endured extreme pain and suffering.

101. Plaintiffs were forced to retain the services of attorneys in this matter and therefore are entitled to recover reimbursement for attorneys' fees and costs.

102. JAYDEN NICKLES was a vulnerable person as defined in NRS § 41.1395(4)(e), and Plaintiffs are entitled to double recovery pursuant to NRS § 41.1395(1).

SEVENTH CAUSE OF ACTION

VULNERABLE PERSON NEGLECT (Against Defendants PEDIATRIX, DOROSTKAR and ANDRUS)

103. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 102 of this Complaint and make them a part of the instant cause of action as though fully set forth herein.

104. At all times relevant herein, JAYDEN NICKLES, was a "vulnerable" person, per NRS § 41.1395. *See* Exhibit 1.

105. At all times relevant hereto, Defendant PEDIATRIX, through its employees and agents, Defendant DOROSTKAR and Defendant ANDRUS, appropriately respond to critical lab values.

106. On May 15, 2019, JAYDEN NICKLES was noted to have critical values requiring immediate intubation beginning at 1609.

107. On May 15, 2019, nursing staff at Sunrise Hospital made numerous attempts to contact Defendant DOROSTKAR and Defendant ANDRUS from 1609 up until the time he coded at 2113.

108. On May 15, 2019, there was no appropriate response to the critical values reported by nursing staff.

109. On May 15, 2019, there was no meaningful action done by Defendant PEDIATRIX to ensure the health and safety of JAYDEN NICKLES.

110. At all times material hereto, Defendant PEDIATRIX, through its employees and agents, Defendant DOROSTKAR and Defendant ANDRUS, failed to provide services

1 within the scope of its responsibility/obligation, which were necessary to maintain the
2 physical health of JAYDEN NICKLES.

3 111. The repeated inaction of Defendant PEDIATRIX, through its employees and agents,
4 Defendant DOROSTKAR and Defendant ANDRUS, constituted “neglect” as defined by
5 NRS § 41.1395(4)(c).

6 112. As a direct and proximate result of the aforesaid neglectful conduct of Defendant
7 PEDIATRIX, through its employees and agents, Defendant DOROSTKAR and Defendant
8 ANDRUS, JAYDEN NICKLES was deprived oxygen for a significant period of time and
9 endured a catastrophic brain injury.

10 113. As a proximate result of the neglect of Defendant PEDIATRIX, through its
11 employees and agents, Defendant DOROSTKAR and Defendant ANDRUS, JAYDEN
12 NICKLES endured extreme pain and suffering.

13 114. Plaintiffs were forced to retain the services of attorneys in this matter and therefore
14 are entitled to recover reimbursement for attorneys’ fees and costs.

15 115. JAYDEN NICKLES was a vulnerable person as defined in NRS § 41.1395(4)(e),
16 and Plaintiffs are entitled to double recovery pursuant to NRS § 41.1395(1).

17 **EIGHTH CAUSE OF ACTION**

18 **NEGLIGENT HIRING, TRAINING, SUPERVISION (Against Defendant SUNRISE)**

19 116. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 115 of
20 this Complaint and make them a part of the instant cause of action as though fully set forth
21 herein.

22 117. Defendant SUNRISE’s employees, agents and/or servants were acting in the scope
23 of their employment, under Defendant’s control, and in furtherance of Defendant’s interest,
24 at all times during their treatment of JAYDEN NICKLES.

25 118. Defendants SUNRISE had a duty to protect Plaintiffs from harm resulting from its
26 employment/association with all physicians, surgeons, registered nurses, licensed practical
27 nurses, pharmacists, registered technicians, certified nursing assistants, certified
28 technicians, attendants, physicians assistants or paramedical personnel at Sunrise Hospital,

1 who were treating JAYDEN NICKLES, including but not limited to, Defendant
2 DOROSTKAR, Defendant ANDRUS, Doe Nurse I, Doe Nurse II, Doe Charge Nurse I, Doe
3 Charge Nurse II.

4 119. Defendant SUNRISE breached that duty by hiring, retaining, failing to train,
5 supervise or discipline all physicians, surgeons, registered nurses, licensed practical nurses,
6 pharmacists, registered technicians, certified nursing assistants, certified technicians,
7 attendants, physicians assistants or paramedical personnel at Sunrise Hospital, who were
8 treating JAYDEN NICKLES, including but not limited to, Defendant DOROSTKAR,
9 Defendant ANDRUS, Doe Nurse I, Doe Nurse II, Doe Charge Nurse I, Doe Charge Nurse
10 II.

11 120. Defendant SUNRISE is vicariously liable for damages resulting from its agents'
12 and/or employees' and/or servants' negligent actions and omissions regarding JAYDEN
13 NICKLES. Defendant's conduct in negligently hiring, failing to supervise and/or correct
14 the negligence of its employees demonstrated conscious disregard for the safety of its
15 patients.

16 121. As a direct and proximate result of the aforesaid neglectful conduct of Defendant
17 SUNRISE, JAYDEN NICKLES was deprived oxygen for a significant period of time and
18 endured a catastrophic brain injury.

19 122. As a proximate result of the neglect of Defendant SUNRISE, JAYDEN NICKLES
20 endured extreme pain and suffering.

21 123. Plaintiffs were forced to retain the services of attorneys in this matter and therefore
22 are entitled to recover reimbursement for attorneys' fees and costs.

23 **NINTH CAUSE OF ACTION**

24 **NEGLIGENT HIRING, TRAINING, SUPERVISION (Against Defendant PEDIATRIX)**

25 124. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 123 of
26 this Complaint and make them a part of the instant cause of action as though fully set forth
27 herein.

28 125. Defendant PEDIATRIX's employees, agents and/or servants were acting in the

scope of their employment, under Defendant's control, and in furtherance of Defendant's interest, at all times during their treatment of JAYDEN NICKLES.

126. Defendants PEDIATRIX had a duty to protect Plaintiffs from harm resulting from its employment/association with all physicians, surgeons, physicians' assistants at Sunrise Hospital, who were treating JAYDEN NICKLES, including but not limited to, Defendant DOROSTKAR and Defendant ANDRUS.

127. Defendant PEDIATRIX breached that duty by hiring, retaining, failing to train, supervise or discipline all physicians, surgeons, physicians' assistants at Sunrise Hospital, who were treating JAYDEN NICKLES, including but not limited to, Defendant DOROSTKAR and Defendant ANDRUS.

128. Defendant PEDIATRIX is vicariously liable for damages resulting from its agents' and/or employees' and/or servants' negligent actions and omissions regarding JAYDEN NICKLES. Defendant's conduct in negligently hiring, failing to supervise and/or correct the negligence of its employees demonstrated conscious disregard for the safety of its patients.

129. As a direct and proximate result of the aforesaid neglectful conduct of Defendant PEDIATRIX, JAYDEN NICKLES was deprived oxygen for a significant period of time and endured a catastrophic brain injury.

130. As a proximate result of the neglect of Defendant PEDIATRIX, JAYDEN NICKLES endured extreme pain and suffering.

131. Plaintiffs were forced to retain the services of attorneys in this matter and therefore are entitled to recover reimbursement for attorneys' fees and costs.

WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as follows:

1. For medical special damages and compensatory damages against Defendants, for an amount in excess of \$15,000, plus pre-judgment and post-judgment interest thereon at the highest legal rate;
2. For an award of punitive damages;

3. For an award of double damages pursuant to NRS § 41.1395(1);
4. For an award of Plaintiffs' attorneys' fees and costs;
5. For such other and further relief as this Court deems just and proper.

DATED this 27th day of April, 2020.

ATKINSON WATKINS & HOFFMANN, LLP

/s/ John F. Bemis, Esq.
JOHN F. BEMIS, ESQ.
Nevada Bar No. 009509
10789 W. Twain Avenue, Suite 100
Las Vegas, NV 89135
Attorneys for Plaintiff

EXHIBIT 1

John F. Bemis, Esq.
Battleborn Injury Lawyers
10789 W. Twain Avenue #100
Las Vegas, NV 89135

Dear Mr. Bemis,

I am a physician licensed to practice medicine in California. I am the the Chief Intelligence and Innovation Officer at Children's Hospital of Orange County (CHOC). Previously, I was the director of the Heart Institute at CHOC, and division chief of the division of cardiology before that. I was a staff cardiologist at Boston Children's Hospital with a position in the cardiac intensive care unit and later promoted to assistant professor at Harvard School of Medicine. I was later the medical director of the cardiac intensive care programs at Children's Hospitals of Los Angeles and Miami Children's Hospital. I am formerly the medical director of pediatric cardiac intensive care service and chief of critical care cardiology at Texas Children's Hospital and a tenured associate professor at Baylor College of Medicine.

In preparation for drafting this declaration, I have reviewed Jayden Nickles' medical records from Sunrise Hospital.

I have been retained to review the care surrounding Jayden Nickles' care and treatment during an extended post-birth admission to Sunrise Children's Hospital. Jayden was born on March 27, 2019 at 32 ½ weeks gestational age. He is a fraternal twin. Jayden was diagnosed, in utero, with pulmonary atresia, and would require cardiac care in NICU/PICU post-birth.

Due to his pulmonary atresia, Jayden underwent two cardiac catheterization procedures on April 1, 2019, and May 3, 2019. Thereafter, Jayden underwent an open sternum central shunting procedure on May 10, 2019. Following this procedure, Jayden was intubated and remained stable. On May 15, 2019, he was extubated and almost immediately showed signs of metabolic acidosis.

Following extubation, Jayden's critical labs were called to Dr. Dorokstar and Dr. Andrus beginning at 1609. Neither physician appropriately responded to the critical values, and Jayden coded at 2113. According to the operative note, the code was terminated due to its length and low oxygen saturations. Thereafter, Jayden began spontaneously breathing with a palpable pulse. As such, CPR was reinstated and ECMO cannulation was performed. The time from code to being on ECMO was two hours twelve minutes. During that time, there was deprivation and/or restriction of oxygen to Jayden's brain.

Following the ECMO procedure, Dr. Lehoux was concerned for Jayden's neurological status. Unfortunately, it was discovered that Jayden suffered a severe brain injury as a result of the lengthy code. This would have been avoided if Dr. Dorokstar and Dr. Adnrus appropriately responded to the critical lab results beginning at 1609.

In review of the records received, it is my opinion that Dr. Dorokstar and Dr. Andrus fell below the standard of care for pediatric intensivists in responding to Jayden's critical laboratory values

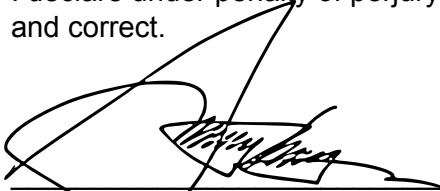
on May 15, 2019. As a result of Dr. Dorokstar and Dr. Andrus failing to properly intervene, Jayden has suffered a severe brain injury.

Per NRS 41.1395, "vulnerable person" is defined as a person who:

- (1) Has a physical or mental impairment that substantially limits one or more of the major life activities of the person; and
- (2) Has a medical or psychological record of the impairment or is otherwise regarded as having the impairment.

Jayden clearly met this definition on May 15, 2019.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.



Anthony C. Chang, MD

February 29, 2020

DATE

EXHIBIT 2

M. Terese Verklan, PhD, CCNS, RNC, FAAN

2323 Chappell Lane
Missouri City, TX 77459
Cell: 281-382-2672
Email: neoconsult@msn.com

John F. Bemis, Esq.
Atkinson Watkins & Hoffmann
10789 W. Twain Avenue
Suite 100
Las Vegas, NV 89135

Dear Mr. Bemis,

I am a clinical nurse specialist providing education and consulting for high-risk neonates since 1987. I am the senior author of “Core Curriculum for Neonatal Intensive Care Nursing” and am widely published in the research and clinical literature related to neonatal nursing.

Currently, I work with the University of Texas Medical Branch, Galveston, TX, Walden University, Minneapolis, MN, and St. Thomas University, Houston, TX. I teach in Master’s programs, including a neonatal nurse practitioner program, and doctoral programs that include both PhD and DNP.

I am a reviewer for professional journals and a member of several editorial boards. I am also an Associate Editor for Nursing and Health Sciences and a Contributing Editor for the Journal of Perinatal and Neonatal Nursing. My credentials are more detailed in my curriculum vitae.

I have reviewed Jayden Nickles’ medical records from Sunrise Hospital. Baby Nickles was born on March 27, 2019. He was premature at 32.5 weeks gestation. Baby Nickles has a female fraternal twin. I have been retained to opine as to the nursing care at Sunrise Hospital during Baby Nickles’ admission.

Due to a heart valve defect, Baby Nickles was intended to have a lengthy stay in the Sunrise Children’s Intensive Care Units. Baby Nickles’ heart valve defect required surgical intervention. On May 10, 2019, Baby Nickles underwent an open sternum central shunting procedure. Following this procedure, Baby Nickles was intubated and followed closely.

On May 15, 2019, Baby Nickles was extubated at approximately 1500. Beginning at 1609, laboratory results showed metabolic acidosis and rising lactate levels. Given Baby Nickles’

history, this was indicative that the heart wasn't pumping enough blood to adequately perfuse his body. Diagnostic tests were drawn at 1609, 1700, 1800, 1900, 2015, and then Baby Nickles coded at 2113. Each diagnostic testing result returned critical results to report to the physician. Nursing staff appropriately reported the lab results to the physicians. However, the response received did not include immediate intubation. Nursing staff had an obligation to go up the chain of command to ensure the health and safety of Baby Nickles. Sunrise Hospital nursing staff failed to follow through on their obligation to advocate for their patient to ensure Baby Nickles was immediately intubated. Over the course of five hours, nursing staff repeatedly failed to ensure Baby Nickles' health and safety. These failures fell significantly below the standard of care.

Given the complex history of Baby Nickles, the failure to utilize the chain of command was not only negligent, but demonstrated a conscious disregard for the health and safety of the patient. Following a long code, Baby Nickles was brought to surgery. As a result of the failures of nursing staff, he suffered a significant brain injury.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

M. Terese Verklan

M. Terese Verklan, PhD, CCNS, RNC, FAAN

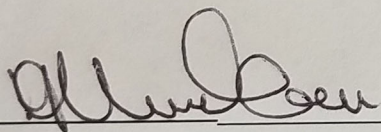
March 1, 2020

DATE

history, this was indicative that the heart wasn't pumping enough blood to adequately perfuse his body. Diagnostic tests were drawn at 1609, 1700, 1800, 1900, 2015, and then Baby Nickles coded at 2113. Each diagnostic testing result returned critical results to report to the physician. Nursing staff appropriately reported the lab results to the physicians. However, the response received did not include immediate intubation. Nursing staff had an obligation to go up the chain of command to ensure the health and safety of Baby Nickles. Sunrise Hospital nursing staff failed to follow through on their obligation to advocate for their patient to ensure Baby Nickles was immediately intubated. Over the course of five hours, nursing staff repeatedly failed to ensure Baby Nickles' health and safety. These failures fell significantly below the standard of care.

Given the complex history of Baby Nickles, the failure to utilize the chain of command was not only negligent, but demonstrated a conscious disregard for the health and safety of the patient. Following a long code, Baby Nickles was brought to surgery. As a result of the failures of nursing staff, he suffered a significant brain injury.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.



M. Terese Verklan, PhD, CCNS, RNC, FAAN

March 1, 2020

DATE