

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

, et al

*

Plaintiffs

*

v.

*

*

Defendant

*

* * * * *

DEFENDANT'S ANSWER AND JURY DEMAND

COMES NOW the Defendant,

d/b/a

, by and through its counsel,

and

&

, and, in Answer to the Plaintiffs' Complaint, state as follows:

GENERAL DENIAL

Pursuant to Maryland Rule 2-323(d), the Defendant generally denies liability as to each and every allegation of liability, malpractice, violation of the standards of care, negligence, causation, injury and damages alleged in the Complaint.

FIRST NEGATIVE DEFENSE

The Defendant hereby denies the legal existence, capacity, and authority of the named Defendant and makes no admissions within the context of Maryland Rule 2-323(f).

FIRST AFFIRMATIVE DEFENSE

The Defendant, its agents, servants and employees, conformed to all applicable standards of care with respect to the decedent.

SECOND AFFIRMATIVE DEFENSE

The Plaintiffs' claims are barred by the applicable statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The Plaintiffs' claims are barred by the doctrine of contributory negligence.

FOURTH AFFIRMATIVE DEFENSE

The Plaintiffs' claims are barred by assumption of the risk.

FIFTH AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SIXTH AFFIRMATIVE DEFENSE

The Plaintiffs' claims are barred by estoppel.

SEVENTH AFFIRMATIVE DEFENSE

The Plaintiffs' claims are limited by Maryland's statutory cap on non-economic damages.

EIGHTH AFFIRMATIVE DEFENSE

The Plaintiffs' injuries are the result of the decedent's pre-existing, underlying medical condition.

NINTH AFFIRMATIVE DEFENSE

The Plaintiffs have failed to comply with the statutory requirements of MD ANN CODE, CTS & JUD PROC, § 3-2A-01, *et seq*

TENTH AFFIRMATIVE DEFENSE

The Plaintiffs' claims are barred by one or more of the specific affirmative defenses enumerated in Maryland Rule 2-323(g).

ELEVENTH AFFIRMATIVE DEFENSE

The Plaintiffs' claims are subject to a private binding arbitration agreement between the parties and this case, therefore, must be resolved in that alternative forum.

WHEREFORE, the Complaint having been fully answered, this Defendant respectfully requests that it be dismissed with prejudice.

Respectfully submitted,

Esq.

JURY DEMAND

The Defendant hereby demands a trial by jury on all issues raised in this litigation.

Respectfully submitted,

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer was mailed, postage prepaid, this

11th day of October, 2011, to:

Rodney M. Gaston, Esq.
Miller & Zois, LLC
Empire Towers, Suite 1001
7310 Governor Ritchie Highway
Glen Burnie, MD 21061
Attorneys for Plaintiffs

4827-0815-5915, p. 1

Circuit Court for Baltimore County
City or County

CIVIL - NON-DOMESTIC CASE INFORMATION REPORT

DIRECTIONS:

Plaintiff: This Information Report must be completed and attached to the complaint filed with the Clerk of Court unless your case is exempted from the requirement by the Chief Judge of the Court of Appeals pursuant to Rule 2-111(a). A copy must be included for each defendant to be served.

Defendant: You must file an Information Report as required by Rule 2-323(h).

THIS INFORMATION REPORT CANNOT BE ACCEPTED AS AN ANSWER OR RESPONSE.

FORM FILED BY: PLAINTIFF DEFENDANT CASE NUMBER _____
(Clerk to insert)

CASE NAME: _____ vs. _____
Plaintiff Defendant

JURY DEMAND: Yes No Anticipated length of trial: _____ hours or _____ days
 RELATED CASE PENDING? Yes No If yes, Case #(s), if known: _____

Special Requirements? Interpreter (Please attach Form CC-DC 41)
 ADA accommodation (Please attach Form CC-DC 49)

NATURE OF ACTION (CHECK ONE BOX) DAMAGES/RELIEF

TORTS	LABOR	A. TORTS	
<input type="checkbox"/> Motor Tort	<input type="checkbox"/> Workers' Comp.	Actual Damages	
<input type="checkbox"/> Premises Liability	<input type="checkbox"/> Wrongful Discharge	<input type="checkbox"/> Under \$7,500	<input type="checkbox"/> Medical Bills
<input type="checkbox"/> Assault & Battery	<input type="checkbox"/> EEO	<input type="checkbox"/> \$7,500 - \$50,000	\$ _____
<input type="checkbox"/> Product Liability	<input type="checkbox"/> Other _____	<input type="checkbox"/> \$50,000 - \$100,000	<input type="checkbox"/> Property Damages
<input checked="" type="checkbox"/> Professional Malpractice		<input type="checkbox"/> Over \$100,000	\$ _____
<input type="checkbox"/> Wrongful Death	CONTRACTS		<input type="checkbox"/> Wage Loss
<input type="checkbox"/> Business & Commercial	<input type="checkbox"/> Insurance		\$ _____
<input type="checkbox"/> Libel & Slander	<input type="checkbox"/> Confessed Judgment		
<input type="checkbox"/> False Arrest/Imprisonment	<input type="checkbox"/> Other _____	B. CONTRACTS	C. NONMONETARY
<input type="checkbox"/> Nuisance	REAL PROPERTY	<input type="checkbox"/> Under \$10,000	<input type="checkbox"/> Declaratory Judgment
<input type="checkbox"/> Toxic Torts	<input type="checkbox"/> Judicial Sale	<input type="checkbox"/> \$10,000 - \$20,000	<input type="checkbox"/> Injunction
<input type="checkbox"/> Fraud	<input type="checkbox"/> Condemnation	<input type="checkbox"/> Over \$20,000	<input type="checkbox"/> Other _____
<input type="checkbox"/> Malicious Prosecution	<input type="checkbox"/> Landlord Tenant		
<input type="checkbox"/> Lead Paint	<input type="checkbox"/> Other _____		
<input type="checkbox"/> Asbestos	OTHER		
<input type="checkbox"/> Other _____	<input type="checkbox"/> Civil Rights		
	<input type="checkbox"/> Environmental		
	<input type="checkbox"/> ADA		
	<input type="checkbox"/> Other _____		

ALTERNATIVE DISPUTE RESOLUTION INFORMATION
 Is this case appropriate for referral to an ADR process under Md. Rule 17-101? (Check all that apply)
 A. Mediation Yes No C. Settlement Conference Yes No
 B. Arbitration Yes No D. Neutral Evaluation Yes No

TRACK REQUEST
 With the exception of Baltimore County and Baltimore City, please fill in the estimated LENGTH OF TRIAL. THIS CASE WILL THEN BE TRACKED ACCORDINGLY.
 1/2 day of trial or less 3 days of trial time
 1 day of trial time More than 3 days of trial time
 2 days of trial time

PLEASE SEE PAGE TWO OF THIS FORM FOR INSTRUCTIONS PERTAINING TO THE BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM AND COMPLEX SCIENCE AND/OR MEDICAL CASE MANAGEMENT PROGRAM (ASTAR), AS WELL AS ADDITIONAL INSTRUCTIONS IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE CITY, PRINCE GEORGE'S COUNTY, OR BALTIMORE COUNTY.

Date 10/12/11 Signature _____

BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM

For all jurisdictions, if Business and Technology track designation under Md. Rule 16-205 is requested, attach a duplicate copy of complaint and check one of the tracks below.

Expedited
Trial within 7 months
of Filing

Standard
Trial within 18 months
of Filing

EMERGENCY RELIEF REQUESTED _____

Signature

Date

SCIENCE AND TECHNOLOGY JUDGE MEDICAL CASE MANAGEMENT PROGRAM

FOR PURPOSES OF POSSIBLE SPECIAL ASSIGNMENT TO AN ASTAR RESOURCE JUDGE under Md. Rule 16-202. Please check the applicable box below and attach a duplicate copy of your complaint.

Expedited - Trial within 7 months of Filing

Standard - Trial within 18 months of Filing

IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE CITY, PRINCE GEORGE'S COUNTY, OR BALTIMORE COUNTY PLEASE FILL OUT THE APPROPRIATE BOX BELOW.

CIRCUIT COURT FOR BALTIMORE CITY (CHECK ONLY ONE)

Expedited Trial 60 to 120 days from notice. Non-jury matters.

Standard-Short Trial 210 days.

Standard Trial 360 days.

Lead Paint Fill in: Birth Date of youngest plaintiff _____.

Asbestos Events and deadlines set by individual judge.

Protracted Cases Complex cases designated by the Administrative Judge.

CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY

To assist the Court in determining the appropriate Track for this case, check one of the boxes below. This information is not an admission and may not be used for any purpose other than Track Assignment.

Liability is conceded.

Liability is not conceded, but is not seriously in dispute.

Liability is seriously in dispute.

CIRCUIT COURT FOR BALTIMORE COUNTY

- | | |
|--|---|
| <input type="checkbox"/> Expedited
(Trial Date-90 days) | Attachment Before Judgment, Declaratory Judgment (Simple), Administrative Appeals, District Court Appeals and Jury Trial Prayers, Guardianship, Injunction, Mandamus. |
| <input type="checkbox"/> Standard
(Trial Date-240 days) | Condemnation, Confessed Judgments (Vacated), Contract, Employment Related Cases, Fraud and Misrepresentation, International Tort, Motor Tort, Other Personal Injury, Workers' Compensation Cases. |
| <input checked="" type="checkbox"/> Extended Standard
(Trial Date-345 days) | Asbestos, Lender Liability, Professional Malpractice, Serious Motor Tort or Personal Injury Cases (medical expenses and wage loss of \$100,000, expert and out-of-state witnesses (parties), and trial of five or more days), State Insolvency. |
| <input type="checkbox"/> Complex
(Trial Date-450 days) | Class Actions, Designated Toxic Tort, Major Construction Contracts, Major Product Liabilities, Other Complex Cases. |