
Daisy Lynn Torres and in all likelihood, other infants and toddlers.

2. On March 29, 2016, Dr. Melanson put fourteen-month-old Daisy Lynn under general anesthesia in a dental office to perform what he told Ms. Squire, her mother, was going to be the filling of two cavities on her baby teeth. After she was under, Melanson came out and insisted to her mother that, for Daisy's well-being, he needed to perform multiple pulpotomies, or baby root canals, and then place crowns on *four* of her eight total teeth – baby teeth. After questioning him but being told this was normal and necessary, her mother trusted Dr. Melanson. She was never told the procedures were unnecessary or how dangerous general anesthesia in the dental office really was.

3. While under general anesthesia during the unnecessary procedure for four root canals in the office, Daisy Lynn's heart and breathing stopped. Resuscitation attempts were made and she was later rushed to the hospital. Daisy Lynn died about five hours after the unnecessary procedure began. Her autopsy later confirmed she died from complications due to the anesthesia and that the procedures she was subjected to were not even needed.

4. Daisy Lynn's family was devastated by her tragic death, but that devastation was joined by outrage after the findings of Dr. Robert Williams, a forensic odontologist consulted by the Travis County Medical Examiner, were released in July 2016: "One can only speculate as to why any treatment was performed considering no indication of dental disease or pathology was seen in the dental radiographs on 3/29/16."

5. Daisy Lynn Torres tragically died after only 14-months of life from complications from unnecessary general anesthesia for needless dental work —work performed just to line the pockets of Austin Children's Dentistry and its affiliates at taxpayer expense. Daisy Lynn was a special, beautiful, completely innocent 14 month old girl. Her family now brings this suit to

redress that wrong and to try and protect other children and parents from the dangers and devastation of these pediatric predators and their moneymaking schemes. Daisy Lynn's parents hope that by telling their story, they can spare others from the pain they now face daily.

II. PARTIES

6. Plaintiff Betty Squier is an individual. She resided in Austin when Daisy Lynn died. She now resides in Houston, Harris County, Texas.

7. Plaintiff Elizandro Torres is an individual. He resided in Austin when Daisy Lynn died. He now resides in Houston, Harris County, Texas.

8. Defendant Michael Melanson, D.M.D., is an individual. He indicates in court filings that he resides in Travis County. His last known address is 2137 Pcoria Drive, Leander, Texas 78641. He may be served with process through personal service upon him at his residence, his place of business, or wherever he may be found.

9. Defendant Austin Children's Dentistry, Inc., is a Texas corporation doing business in Austin Texas with a principal place of business in Austin, Travis County. It may be served with process through service upon its registered agent for service of process, Brian Peters, 12501 Hymeadow Drive, Suite 1A, Austin, Texas 78750, or wherever he may be found.

10. Defendant Tal Shohamy is an individual. Upon information and belief, Mr. Shohamy resides at 1713 Barrilla Street, Cedar Park, and his principal place of business is 12501 Hymeadow Drive, Ste 1A, Austin, Travis County 78750. He may be served with process through personal service upon him at his residence, his place of business, or wherever he may be found.

11. Defendant David Williams, M.D., is an individual. Upon information and belief, Dr. Williams resides at 2133 Sea Eagle View, Austin, Travis County, Texas 78738, and his place of business is 3821 Juniper Trace, Suite 206, Austin, Travis County, Texas 78738. He may be

served with process through personal service upon him at his residence, his place of business, or wherever he may be found.

12. Defendant Texan Anesthesiology Association, P.A., is an unincorporated association that maintains a principal place of business at 3821 Juniper Trace, Suite 206, Austin, Travis County, Texas 78738. It may be served with process through service upon its registered agent for service of process, Dr. Williams, 2133 Sea Eagle View, Austin, Travis County, Texas 78738, or wherever he may be found.

II. DISCOVERY CONTROL PLAN

13. Plaintiffs request that discovery be conducted under Discovery Control Plan Level 3, as set forth in Rule 190.4 of the Texas Rules of Civil Procedure.

III. JURISDICTION AND VENUE

14. This Court has jurisdiction over the parties to this suit because they are residents of the State of Texas or do business in the State of Texas.

15. This Court has jurisdiction over this lawsuit because the amount in controversy exceeds this Court's jurisdictional requirements. Further, and as required by Rule 47(c) of the Texas Rules of Civil Procedure, Plaintiffs state they are seeking monetary relief over \$1 million.

16. Venue is proper in Travis County, Texas, under Section 15.002(a)(2) of the Texas Civil Practice & Remedies Code because it is the county of Texan Anesthesiology's principal office in Texas and also the principal place of business of Austin Children's Dentistry.

17. Venue is also proper in Travis County, Texas, under Section 15.002(a)(2) because it was the county of Dr. Williams's residence and Dr. Melanson's residence at the time Plaintiffs' causes of action accrued.

18. Venue is also proper in Travis County, Texas, under Section 15.002(a)(1) because all or a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in Travis County. Daisy Lynn Torres underwent medical procedures and died in Travis County, Texas and the Defendants undertook tortious conduct in Travis County Texas.

19. Because venue is proper as to at least one defendant in Travis County, Texas, venue is proper for all defendants in Travis County under Section 15.005.

IV. FACTUAL BACKGROUND

A. The scheme: how children's dentistry becomes a profit mill

20. Across the country, dental centers are being exposed for schemes to collect large amounts of taxpayer-funded Medicaid dollars inappropriately, by systematically performing unnecessary dental procedures on children as young as 14-months old.

21. This is how it typically works: the center specifically markets to or recruits young, low-income parents whose infants and toddlers qualify for early childhood dental exams funded through Medicaid.

22. The center specifically encourages, coaches and/or requires its dentists to recommend Medicaid covered procedures for those infants and toddlers during these exams—whether or not they are medically necessary—and to convince those young, trusting parents to consent to treatment.

23. And speed and efficiency are prized: the more Medicaid covered procedures the office can perform each day, the more money it can make.

24. During the procedures, which appear to be primarily filling cavities and performing pulpotomies (baby root canals) and placing crowns, the infants and toddlers are frequently restrained or sedated to limit their movement and increase the dentists' productivity.

25. Although it carries a greater risk, infants and toddlers are also put under general anesthesia in the dental office for some procedures. To make more money, mobile anesthesiologists are also used to perform these procedures outside of the hospitals where they are typically performed—and away from the supervision, guidelines and safety found there.

26. Parents and others are excluded from the room while the procedure is performed. This also increases productivity: parents would certainly object to and stop the procedures if they knew what was happening.

27. Upon information and belief, Daisy Lynn Torres was a victim of such a scheme here in Austin, Texas.

B. The new corporate structure of pediatric dentistry

28. This ruthless approach to providing unnecessary pediatric dental care abuses the trust of parents and places children in great danger. It also enriches the owners of these practices while at the same time defrauding taxpayer-funded healthcare programs for low-income families.

29. Upon information and belief, Austin Children’s Dentistry is another example of a trend within the industry: dental clinics, or more commonly, chains of dental clinics, owned or controlled by non-dentist investors.

30. Established clinics owned by dentists are acquired by new owners with no education or experience with dentistry. A focus on patient care and wellbeing is replaced with the profit-making mindset and system described above: expensive, painful, unnecessary treatments covered by insurance or Medicaid are aggressively promoted, and patient acquisition and increased procedure numbers are pushed.

31. Upon information and belief, Tal Shohamy owns and/or actively manages Austin Children’s Dentistry, on his own behalf or with/on behalf of other non-dentist investors. Mr.

Shohamy, however, is not licensed to practice dentistry by the State of Texas. Mr. Shohamy's actions alleged herein violate, among other things, the Texas Dental Practices Act, which prohibits the unlicensed practice of dentistry. He and the investors he likely represents are subject to civil liability for acts and omissions alleged herein.

C. The Death of Daisy Lynn Torres

32. Daisy Lynn Torres was a beautiful 14-month-old toddler who was cherished by her mother, father, and big brother. Her family was one of those to which Austin Children's Dentistry specifically marketed, whose children are covered by Medicaid for dental needs.

1. Earlier check-ups

33. Daisy Lynn went with her mother and big brother to his first visit to Austin Children's Dentistry when the family first moved to Austin and she was less than a month old. Dr. Melanson asked if Daisy had an appointment yet and reminded mom to bring her in at six months of age and to make the appointment now. Six months of age is the first Medicaid covered appointment. Her mom complied and Daisy Lynn then came back for her first check-up at Austin Children's Dentistry in July 2015. She was about 6 months old and had one tooth. She was examined by Dr. Melanson, who noted no problems with her teeth in his records.

34. She returned to Austin Children's Dentistry and Dr. Melanson in November 2015. Again, no problems with Daisy Lynn's teeth were noted.

35. On January 6, 2016, Daisy Lynn was seen again at Austin Children's Dentistry by Dr. Melanson. His notes reflect a possible cavity and that one of her baby teeth was growing in discolored, but no action was taken. A re-evaluation was set for three months.

36. Daisy Lynn was seen again at Austin Children's Dentistry by Dr. Melanson on March 10, 2016. She had eight baby teeth. At this visit, Ms. Squier, Daisy Lynn's mother, was

told Daisy Lynn had cavities and that two would need to be filled. Dr. Melanson stated if Ms. Squier did not take care of Daisy Lynn's cavities, infection would occur and cause serious problems, specifically mentioning Daisy Lynn's face was at risk of "sinking in" if the cavities were not filled. Ms. Squier was only told to make a new appointment; she was not given details of the procedure Dr. Melanson would perform or how it would be performed.

2. The day of Daisy Lynn's death: March 29, 2016

37. Ms. Squier and Daisy Lynn went to Austin Children's Dentistry for the follow-up appointment early in the morning on March 29, 2016 to have two cavities filled. Daisy Lynn was the first patient scheduled. When they arrived, Dr. David Williams, a mobile anesthesiologist with Texan Anesthesiology, gave Ms. Squier a clipboard with papers for her to sign. Dr. Williams did not describe or explain the procedure that would be performed on her daughter that morning, or discuss the additional risks it posed when performed in the office setting. Nothing was discussed about the need for any root canals or crowns.

38. When Dr. Melanson arrived at the clinic, he did not greet Daisy Lynn or her mom and did not discuss the procedure or any crowns. Instead, he later came out and brought Ms. Squier and Daisy Lynn back to the treatment area. The procedure for filling the two cavities was going to take place in what appeared to be a normal dental chair. Dr. Melanson told Ms. Squier to climb in the chair and hold Daisy Lynn on her lap, they would put a mask on Daisy Lynn's face, count to ten, and Daisy Lynn would go under. When Ms. Squier asked some questions, they said they do it all the time and it was "no big deal." Ms. Squier complied. She climbed in the chair and held Daisy Lynn in her lap. A mask was placed over Daisy Lynn's face while she was moving and crying and then she appeared to fall sleep after about 10 seconds. Per instruction, Ms. Squier then slid out from underneath Daisy Lynn and left her little body in the dental chair. Ms. Squier

specifically asked to stay in the room with Daisy Lynn while the procedure was performed, but this request was refused. Ms. Squier was then told to leave the treatment room and wait outside. This was the last time Ms. Squier ever saw her daughter with any real life left in her body.

39. A few minutes after Ms. Squier left the treatment room, Dr. Melanson came out to the waiting room and told her that Daisy Lynn had six cavities that needed to be addressed, not two. He also told her to do so he would need to do four root canals and insert four crowns on all four of her baby teeth in her upper jaw and performing two fillings on baby teeth in her bottom jaw. She asked if that was normal and he insisted it was and he insisted he needed to do it now for Daisy Lynn's well-being, again emphasizing the need to do it for Daisy Lynn's safety and that doing so is what a good, responsible parent would do. Later, other parents would reveal that this line of guilt and intimidation was used on them by Melanson to obtain "permission" for his recommended procedures.

40. Dr. Melanson then left the waiting room without describing the procedure, or providing information on alternative treatments. Ms. Squier trusted that what Melanson told her was true – that the procedure and crowns were needed then for Daisy Lynn's well-being.

41. About fifteen or so minutes later, Dr. Melanson returned to the waiting room. He asked Ms. Squier to step in another room and told Ms. Squier that Daisy Lynn was having complications. He said CPR was being performed, but Dr. Melanson said everything was "under control," Daisy Lynn was fine and stable, and don't "freak out and don't panic." At the same time, he said emergency medical services had been called per normal procedure. Ms. Squier immediately asked to see her daughter, which Dr. Melanson refused. Unbeknownst to Ms. Squier, nothing was fine. Daisy Lynn was not stable. She had no pulse and was not breathing. Daisy Lynn was dying in the dental chair and Dr. Melanson was lying to her about it.

42. After being called, EMS arrived at Austin Children's Dentistry, found Daisy Lynn in the dental chair with no pulse, unresponsive and with CPR in progress. She was receiving CPR in the dental chair. EMS tried heroically to revive her. By this time Mr. Torres (Daisy Lynn's Father) had been called and arrived. During the wait, Ms. Squier and Mr. Torres were never allowed back to see their dying daughter. Eventually, they watched as their daughter was wheeled out on a stretcher, her head wrapped to her mouth in blue gauze, her beautiful eyes and face covered. Her mouth was filled with a breathing tube and bag for artificial respiration. They were told that Daisy Lynn was in cardiac arrest, was on her way to the hospital and that she was in God's hands.

43. When Daisy Lynn arrived at the hospital, the staff found she was not making any spontaneous movements or respiratory effort. Daisy Lynn was moved to the pediatric intensive care unit, where her battle for life continued, but she never improved. At 11:57 a.m., after a final 34 minutes of CPR failed, life support was removed and Daisy Lynn was pronounced dead. Daisy Lynn was then given to her parents to hold for one final time.

3. Daisy Lynn's autopsy and the attempts of Austin Children's Dentistry to intimidate and suppress the truth

44. Daisy Lynn's autopsy found no external injuries, and no internal gross evidence of natural disease or injury. The Travis County Medical Examiner concluded Daisy Lynn died from complications caused by anesthesia.

45. The medical examiner's autopsy also noted that while four teeth showed signs of dental work (the drilling and/or pulpotomies Dr. Melanson was performing when Daisy Lynn began experiencing distress), he saw no evidence of dental or oral pathology. In other words, the medical examiner could not see any problems Dr. Melanson could have been trying to correct with his procedures.

46. To investigate this irregularity, the medical examiner retained an independent, forensic odontologist to examine Daisy Lynn's records. (A forensic odontologist is a dentist who specializes in investigative examination of teeth and other related matters.) In a report issued July 5, 2016, Dr. Robert Williams, based on his 40 plus years of education, training and experience as both a general dentist and a forensic odontologist, provided his objective, professional opinion to the Travis County Medical Examiner that he did not see sufficient evidence of tooth decay and/or pain in Daisy Lynn's records to justify the surgery Melanson performed. Dr. Williams noted in his report that **"one can only speculate as to why any treatment was performed considering no indication of dental disease or pathology was seen in the dental radiographs dated 03/29/16."**

47. Immediately after the report was issued with the autopsy, Austin Children's Dentistry, Shohamy and Melanson exerted overt pressure on Dr. Williams to attempt to coerce him into changing his opinions, including but not limited to threatening a lawsuit against him for millions of dollars. Dr. Williams has stated he considered bowing to the threats of the Defendants in order to save himself the agony of litigation, but ultimately decided to stick with his principles and confirmed his original opinion to the Travis County Medical Examiner.

48. Since then, Defendants carried out their threat to sue Dr. Robert Williams and filed two separate lawsuits in two different counties, no doubt to double his agony. Austin Children's Center complains in one suit that it has lost millions of dollars since the report went public. Of note, the Chief Odontologist from the New Mexico office of Medical Examiners has provided sworn testimony in those cases that he likewise reviewed Daisy Lynn's records and shares the opinion of Dr. Williams that the treatment Daisy Lynn was undergoing when she died was unnecessary.

D. Other victims

49. It is clear Austin Children's Dentistry, Dr. Melanson, Dr. David Williams, and Texan Anesthesiology—likely at the direction of or with the knowledge and/or consent of Mr. Shohamy and the other non-dentist investors he represents—performed an unnecessary and dangerous procedure on Daisy Lynn Torres in an effort to collect Medicaid dollars, which ultimately resulted in Daisy Lynn's death.

50. Others have come forward since the death of Daisy Lynn to complain their children have likewise been subjected to unnecessary dental work by Dr. Melanson at Austin Children's Dentistry. What is not yet clear is how many other families these defendants have preyed upon. The extent of their scheme to endanger Austin children and enrich themselves will be exposed to the light of day in this lawsuit.

V. CAUSES OF ACTION

A. Medical negligence

1. Against Dr. Melanson

51. Plaintiffs incorporate the preceding paragraphs and the allegations they contain as if completely set forth herein.

52. Dr. Melanson is an individual currently licensed to practice dentistry in Texas. His license number issued by the Texas State Board of Dental Examiners is 24899.

53. Ms. Squier's and Mr. Torres's claims here are healthcare liability claims. They are causes of action against a healthcare provider for treatment, lack of treatment, or departures from accepted standards of medical care, health care, safety, or professional or administrative services directly related to health care.

54. Dr. Melanson owed Daisy Lynn a duty of care as to provide her dental care in a safe, reasonable, and prudent manner.

55. Dr. Melanson breached the duty of care to Daisy Lynn by engaging in one or more of several acts and omissions constituting negligence, including, but not limited to: performing unnecessary procedures on Daisy Lynn; failing to choose an appropriate procedure; failing to monitor Daisy Lynn's condition; failing to diagnose Daisy Lynn's condition properly; failing to treat Daisy Lynn's condition properly; failing to provide the medical and nursing care reasonably required for Daisy Lynn's condition; and/or inappropriate preparation for or response to anesthesia related emergencies.

56. Dr. Melanson's breach of duty was a proximate cause of injury and damage to Plaintiffs, which resulted in the following damages: Daisy Lynn's conscious physical pain and mental anguish experienced prior to her death; the pre-death terror Daisy Lynn experienced; all reasonable and necessary medical expenses for any emergency care associated with the attempts to save Daisy Lynn's life; all reasonable and necessary funeral and burial expenses for Daisy Lynn; the mental anguish, including emotional pain, torment and suffering, that Plaintiffs have experienced from Daisy Lynn's death; the pecuniary loss suffered Plaintiffs suffered because of Daisy Lynn's death, including the loss of care, maintenance, support, services, advice, attention, counsel, guidance, protection, and reasonable contribution of pecuniary value they would, in reasonable probability, have been received from Daisy Lynn; the loss of society and companionship Plaintiffs would have, with reasonable probability, experienced if Daisy Lynn had lived; loss of inheritance; and all other damages available to Plaintiffs under Texas law.

57. Plaintiffs seek unliquidated damages within the jurisdictional limits of this Court.

58. Exemplary damages: Plaintiffs' injuries resulted from Dr. Melanson's gross negligence, which entitles Plaintiffs to exemplary damages under Section 41.003(a) of the Texas Civil Practice & Remedies Code. The acts and omissions of Melanson indicate there should be no cap on these damages.

2. Against Austin Children's Dentistry, Inc.

59. Plaintiffs incorporate the preceding paragraphs and the allegations they contain as if completely set forth herein.

60. Austin Children's Dentistry is a Texas corporation that upon information and belief has been practicing dental medicine illegally. Upon information and belief, Austin Children's Dentistry is in violation of the Texas Dental Practices Act because it is owned, maintained, and/or managed by individuals not licensed by the Texas State Board of Dental Examiners.

61. Ms. Squire's and Mr. Torres's claims here are healthcare liability claims. They are causes of action against a healthcare provider for treatment, lack of treatment, or departures from accepted standards of medical care, health care, safety, or professional or administrative services directly related to health care.

62. Austin Children's Dentistry owed Daisy Lynn Torres a duty of care to provide safe, reasonable, and prudent dental services.

63. Austin Children's Dentistry is liable to Plaintiffs for the breach of the duty of care by Dr. Melanson, Austin Children's Dentistry's agent or employee, because Dr. Melanson's acts were performed while in the employment/agency of Austin Children's Dentistry, to further Austin Children's Dentistry's business, and/or to accomplish the objective for which Dr. Melanson was hired. Dr. Melanson's acts were within the course and scope of that employment or within the authority delegated to Dr. Melanson. Dr. Melanson breached the duty of care to Daisy Lynn by

engaging in several acts and omissions constituting negligence, including, but not limited to: performing unnecessary procedures on Daisy Lynn; failing to choose an appropriate procedure; failing to monitor Daisy Lynn's condition; failing to diagnose Daisy Lynn's condition properly; failing to treat Daisy Lynn's condition properly; failing to provide the medical and nursing care reasonably required for Daisy Lynn's condition; and/or inappropriate preparation for or response to anesthesia related emergencies.

64. Austin Children's Dentistry's breach of duty proximately caused injury to Plaintiffs, which resulted in the following damages: Daisy Lynn's conscious physical pain and mental anguish experienced prior to her death; the pre-death terror Daisy Lynn experienced; all reasonable and necessary medical expenses for any emergency care associated with the attempts to save Daisy Lynn's life; all reasonable and necessary funeral and burial expenses for Daisy Lynn; the mental anguish, including emotional pain, torment and suffering, that Plaintiffs have experienced from Daisy Lynn's death; the pecuniary loss suffered Plaintiffs suffered because of Daisy Lynn's death, including the loss of care, maintenance, support, services, advice, attention, counsel, guidance, protection, and reasonable contribution of pecuniary value they would, in reasonable probability, have been received from Daisy Lynn; the loss of society and companionship Plaintiffs would have, with reasonable probability, experienced if Daisy Lynn had lived; loss of inheritance; and all other damages available to Plaintiffs under Texas law.

65. Plaintiffs seek unliquidated damages within the jurisdictional limits of this Court.

66. Exemplary damages: Plaintiffs' injuries resulted from Austin Children's Dentistry's gross negligence, which entitles Plaintiffs to exemplary damages under Section 41.003(a) of the Texas Civil Practice & Remedies Code section 41.003(a). The acts and omissions indicate these damages should not be capped.

3. Against Dr. Williams

67. Plaintiffs incorporate the preceding paragraphs and the allegations they contain as if completely set forth herein.

68. Dr. Williams is an individual licensed to practice medicine in Texas. He is licensed by the Texas Medical Board, license number L0699.

69. Ms. Squire's and Mr. Torres's claims here are healthcare liability claims. They are causes of action against a healthcare provider for treatment, lack of treatment, or departures from accepted standards of medical care, health care, safety, or professional or administrative services directly related to health care.

70. Dr. Williams owed Daisy Lynn a duty of care to provide her anesthesiology services in a safe, reasonable, and prudent manner.

71. Dr. Williams breached the duty of care to Daisy Lynn by engaging in one or more acts and omissions constituting negligence, including, but not limited to negligently providing anesthesia; failing to properly assess and monitor the patient; errors in dosage; failure to timely recognize complications; allowing the patient to go unattended; and/or inappropriate preparation for or response to anesthesia related emergencies.

72. Dr. Williams's breach of duty proximately caused injury to Plaintiffs, which resulted in the following damages: Daisy Lynn's conscious physical pain and mental anguish experienced prior to her death; the pre-death terror Daisy Lynn experienced; all reasonable and necessary medical expenses for any emergency care associated with the attempts to save Daisy Lynn's life; all reasonable and necessary funeral and burial expenses for Daisy Lynn; the mental anguish, including emotional pain, torment and suffering, that Plaintiffs have experienced from Daisy Lynn's death; the pecuniary loss suffered Plaintiffs suffered because of Daisy Lynn's death,

including the loss of care, maintenance, support, services, advice, attention, counsel, guidance, protection, and reasonable contribution of pecuniary value they would, in reasonable probability, have been received from Daisy Lynn; the loss of society and companionship Plaintiffs would have, with reasonable probability, experienced if Daisy Lynn had lived; loss of inheritance; and all other damages available to Plaintiffs under Texas law.

73. Plaintiffs seek unliquidated damages within the jurisdictional limits of this Court.

74. Exemplary damages: Plaintiffs' injuries resulted from Dr. Williams's gross negligence, which entitles Plaintiffs to exemplary damages under Section 41.003(a) of the Texas Civil Practice & Remedies Code.

4. Against Texan Anesthesiology Association, P.A.

75. Plaintiffs incorporate the preceding paragraphs and the allegations they contain as if completely set forth herein.

76. Texan Anesthesiology Association, P.A., is a professional association organized under the Texas Professional Association Act.

77. Ms. Squire's and Mr. Torres's claims are healthcare liability claims. They are causes of action against a healthcare provider for treatment, lack of treatment, or departures from accepted standards of medical care, health care, safety, or professional or administrative services directly related to health care.

78. Texan Anesthesiology owed Daisy Lynn a duty of care to provide her anesthesiology services in a safe, reasonable, and prudent manner.

79. Texan Anesthesiology is liable to Plaintiffs for the breach of the duty of care by Dr. Williams, Texan Anesthesiology's employee or agent, because Dr. Williams's acts were performed while in the employment/agency of Texan Anesthesiology, to further Texan

Anesthesiology's business, and/or to accomplish the objective for which Dr. Williams was hired. Dr. Williams's acts were within the course and scope of that employment/agency or within the authority delegated to Dr. Williams. Dr. Williams breached the duty of care to Daisy Lynn by engaging in one or more acts and omissions constituting negligence, including, but not limited to: negligently providing anesthesia; failing to properly assess and monitor the patient; errors in dosage; failure to timely recognize complications; allowing the patient to go unattended; and/or inappropriate preparation for or response to anesthesia related emergencies.

80. Texan Anesthesiology's breach of duty proximately caused injury to Plaintiffs, which resulted in the following damages: Daisy Lynn's conscious physical pain and mental anguish experienced prior to her death; the pre-death terror Daisy Lynn experienced; all reasonable and necessary medical expenses for any emergency care associated with the attempts to save Daisy Lynn's life; all reasonable and necessary funeral and burial expenses for Daisy Lynn; the mental anguish, including emotional pain, torment and suffering, that Plaintiffs have experienced from Daisy Lynn's death; the pecuniary loss suffered Plaintiffs suffered because of Daisy Lynn's death, including the loss of care, maintenance, support, services, advice, attention, counsel, guidance, protection, and reasonable contribution of pecuniary value they would, in reasonable probability, have been received from Daisy Lynn; the loss of society and companionship Plaintiffs would have, with reasonable probability, experienced if Daisy Lynn had lived; loss of inheritance; and all other damages available to Plaintiffs under Texas law.

81. Plaintiffs seek unliquidated damages within the jurisdictional limits of this Court.

82. Exemplary damages: Plaintiffs' injuries resulted from Texan Anesthesiology's gross negligence, which entitles Plaintiffs to exemplary damages under Section 41.003(a) of the Texas Civil Practice & Remedies Code section 41.003(a).

B. Lack on Informed Consent

1. Against Dr. Melanson and Austin Children's Dentistry

83. Plaintiffs incorporate the preceding paragraphs and the allegations they contain as if completely set forth herein.

84. Plaintiffs and Dr. Melanson established a physician-patient relationship.

85. Before obtaining Plaintiffs' consent to perform multiple pulpotomies, set multiple stainless steel crowns, and perform multiple fillings on Daisy Lynn, under general anesthesia in the dental office, Dr. Melanson did not properly inform Daisy Lynn or Plaintiffs of the inherent risks and hazards associated with those procedures.

86. Daisy Lynn and Plaintiffs were injured by the occurrence of an undisclosed risk.

87. A reasonable person would have refused the procedures Dr. Melanson performed if the risks and hazards had been properly disclosed. Specifically, if Plaintiffs had known the procedures Dr. Melanson performed were not medically necessary and carried a high degree of risk to Daisy Lynn's health and life, Plaintiffs never would have provided their consent for Dr. Melanson to perform those procedures.

88. Dr. Melanson's failure to inform Plaintiffs of the risks associated with those procedures proximately caused injury to Plaintiffs, which resulted in the following damages: Daisy Lynn's conscious physical pain and mental anguish experienced prior to her death; the pre-death terror Daisy Lynn experienced; all reasonable and necessary medical expenses for any emergency care associated with the attempts to save Daisy Lynn's life; all reasonable and necessary funeral and burial expenses for Daisy Lynn; the mental anguish, including emotional pain, torment and suffering, that Plaintiffs have experienced from Daisy Lynn's death; the pecuniary loss suffered Plaintiffs suffered because of Daisy Lynn's death, including the loss of care, maintenance, support,

services, advice, attention, counsel, guidance, protection, and reasonable contribution of pecuniary value they would, in reasonable probability, have been received from Daisy Lynn; the loss of society and companionship Plaintiffs would have, with reasonable probability, experienced if Daisy Lynn had lived; loss of inheritance; and all other damages available to Plaintiffs under Texas law.

89. Dr. Melanson was an employee of Austin Children's Dentistry at the time of his actions described above, and took those actions within his general authority, in furtherance of Austin Children's Dentistry's business, and/or for the accomplishment of the object for which Dr. Melanson was hired.

90. Plaintiffs seek unliquidated damages within the jurisdictional limits of this Court.

91. Exemplary damages: Plaintiffs' injuries resulted from Dr. Melanson's gross negligence, which entitles Plaintiffs to exemplary damages under Section 41.003(a) of the Texas Civil Practice & Remedies Code section 41.003(a).

2. Against Dr. Williams and Texan Anesthesiology

92. Plaintiffs incorporate the preceding paragraphs and the allegations they contain as if completely set forth herein.

93. Plaintiffs and Dr. Williams established a physician-patient relationship.

94. Before obtaining Plaintiffs' consent for to place Daisy Lynn under general anesthesia, Dr. Williams did not properly inform Plaintiffs of the inherent risks and hazards associated with that procedure. Specifically, Plaintiffs were not properly advised of the use of anesthesia before arriving at the clinic, or informed of the risk of severe personal injury or death for a child of Daisy Lynn's age if anesthesia was administered. Further, Plaintiffs were not properly informed that the use of general anesthesia was not necessary for the procedures Dr.

Mclanson would be performing, or that Dr. Mclanson's procedures themselves were unnecessary.

95. Plaintiffs were injured by the occurrence of an undisclosed risk.

96. A reasonable person would have refused the use of general anesthesia on Daisy Lynn if the risks and hazards had been disclosed. Plaintiffs never would have agreed to allow Dr. Williams to place Daisy Lynn under general anesthesia if they were properly advised of the risks it posed and the necessity of the procedure.

97. Dr. Williams's failure to inform Plaintiffs of the risks associated with the administration of general anesthesia proximately caused injury to Daisy Lynn and Plaintiffs, which resulted in the following damages: Daisy Lynn's conscious physical pain and mental anguish experienced prior to her death; the pre-death terror Daisy Lynn experienced; all reasonable and necessary medical expenses for any emergency care associated with the attempts to save Daisy Lynn's life; all reasonable and necessary funeral and burial expenses for Daisy Lynn; the mental anguish, including emotional pain, torment and suffering, that Plaintiffs have experienced from Daisy Lynn's death; the pecuniary loss suffered Plaintiffs suffered because of Daisy Lynn's death, including the loss of care, maintenance, support, services, advice, attention, counsel, guidance, protection, and reasonable contribution of pecuniary value they would, in reasonable probability, have been received from Daisy Lynn; the loss of society and companionship Plaintiffs would have, with reasonable probability, experienced if Daisy Lynn had lived; loss of inheritance; and all other damages available to Plaintiffs under Texas law.

98. Dr. Williams was an employee of Texan Anesthesiology at the time of his actions described above, and took those actions within his general authority, in furtherance of Texan Anesthesiology's business, and/or for the accomplishment of the object for which Dr. Williams was hired.

99. Plaintiffs seek unliquidated damages within the jurisdictional limits of this Court.

100. Exemplary damages: Plaintiffs' injuries resulted from Dr. Williams's gross negligence, which entitles Plaintiffs to exemplary damages under Section 41.003(a) of the Texas Civil Practice & Remedies Code section 41.003(a).

C. Negligent Hiring

1. Against Austin Children's Dentistry

101. Austin Children's Dentistry had a legal duty to hire, supervise, train, and retain competent employees, which is imposed on all employers under Texas law.

102. Austin Children's Dentistry breached that duty when it negligently hired, supervised, trained, and/or retained Dr. Melanson, including, but not limited to:

- failing to implement or enforce adequate policies and procedures to prevent its dentists from misdiagnosing cavities, and inappropriately or unnecessarily performing pulpotomies and crowns;
- failing to reasonably and prudently train and supervise employees to appropriately diagnose and treat children; and
- retaining Dr. Melanson when it knew, or in the exercise of reasonable care should have known, that Dr. Melanson had a pattern of providing negligent, unnecessary, and excessive dental treatment.

103. Austin Children's Dentistry's breach of its duty to hire, supervise, train, and/or retain competent employees proximately caused injury to Plaintiffs, which resulted in the following damages: Daisy Lynn's conscious physical pain and mental anguish experienced prior to her death; the pre-death terror Daisy Lynn experienced; all reasonable and necessary medical expenses for any emergency care associated with the attempts to save Daisy Lynn's life; all reasonable and necessary funeral and burial expenses for Daisy Lynn; the mental anguish, including emotional pain, torment and suffering, that Plaintiffs have experienced from Daisy Lynn's death; the pecuniary loss suffered Plaintiffs suffered because of Daisy Lynn's death,

including the loss of care, maintenance, support, services, advice, attention, counsel, guidance, protection, and reasonable contribution of pecuniary value they would, in reasonable probability, have been received from Daisy Lynn; the loss of society and companionship Plaintiffs would have, with reasonable probability, experienced if Daisy Lynn had lived; loss of inheritance; and all other damages available to Plaintiffs under Texas law.

104. Plaintiffs seek unliquidated damages within the jurisdictional limits of this Court.

105. Exemplary damages: Plaintiffs' injuries resulted from Austin Children's Dentistry's gross negligence, which entitles Plaintiffs to exemplary damages under Section 41.003(a) of the Texas Civil Practice & Remedies Code.

2. Against Texan Anesthesiology

106. Texan Anesthesiology had a legal duty to hire, supervise, train, and retain competent employees, which is imposed on all employers under Texas law.

107. Texan Anesthesiology breached that duty when it negligently hired, supervised, trained, and/or retained Dr. Williams, including, but not limited to:

- failing to implement or enforce adequate policies and procedures to prevent its anesthesiologists from recommending or agreeing to unnecessary and/or excessive anesthetic treatment;
- failing to reasonably and prudently train and supervise employees to appropriately diagnose and treat children; and
- retaining Dr. Williams when it knew, or in the exercise of reasonable care should have known, that Dr. Williams had a pattern of providing negligent, unnecessary, and excessive anesthetic treatment.

108. Texan Anesthesiology's breach of its duty to hire, supervise, train, and/or retain competent employees proximately caused injury to Plaintiffs, which resulted in the following damages: Daisy Lynn's conscious physical pain and mental anguish experienced prior to her death; the pre-death terror Daisy Lynn experienced; all reasonable and necessary medical expenses for

any emergency care associated with the attempts to save Daisy Lynn's life; all reasonable and necessary funeral and burial expenses for Daisy Lynn; the mental anguish, including emotional pain, torment and suffering, that Plaintiffs have experienced from Daisy Lynn's death; the pecuniary loss suffered Plaintiffs suffered because of Daisy Lynn's death, including the loss of care, maintenance, support, services, advice, attention, counsel, guidance, protection, and reasonable contribution of pecuniary value they would, in reasonable probability, have been received from Daisy Lynn; the loss of society and companionship Plaintiffs would have, with reasonable probability, experienced if Daisy Lynn had lived; loss of inheritance; and all other damages available to Plaintiffs under Texas law.

109. Plaintiffs seek unliquidated damages within the jurisdictional limits of this Court.

110. Exemplary damages: Plaintiffs' injuries resulted from Texan Anesthesiology's gross negligence, which entitles Plaintiffs to exemplary damages under Section 41.003(a) of the Texas Civil Practice & Remedies Code.

D. Negligent Misrepresentation

1. Against Dr. Melanson

111. Plaintiffs incorporate the preceding paragraphs and the allegations they contain as if completely set forth herein and plead in the alternative if necessary.

112. Dr. Melanson represented to Plaintiffs that Daisy Lynn required dental work.

113. Dr. Melanson made the representation in the course of his business as a dentist for Austin Children's Dentistry.

114. In the alternative, Dr. Melanson made the representation in the course of a transaction in which he had an interest. Specifically, upon information and belief, Dr. Melanson stood to gain financially by convincing families like Plaintiffs to agree to unnecessary dental

procedures.

115. Dr. Melanson made the representation for the guidance of others. Dr. Melanson intended for Plaintiffs, and others, to rely on his representations in deciding to undergo dental procedures.

116. Dr. Melanson's representation was a misstatement of fact. Upon information and belief, he knew or should have known at the time he made his representations that Daisy Lynn did not need the dental procedure he recommended.

117. Dr. Melanson did not use reasonable care in communicating the information.

118. Plaintiffs justifiably relied on Dr. Melanson's representation.

119. Dr. Melanson's misrepresentation proximately caused injury to Plaintiffs, which resulted in the following damages: Daisy Lynn's conscious physical pain and mental anguish experienced prior to her death; the pre-death terror Daisy Lynn experienced; all reasonable and necessary medical expenses for any emergency care associated with the attempts to save Daisy Lynn's life; all reasonable and necessary funeral and burial expenses for Daisy Lynn; the mental anguish, including emotional pain, torment and suffering, that Plaintiffs have experienced from Daisy Lynn's death; the pecuniary loss suffered Plaintiffs suffered because of Daisy Lynn's death, including the loss of care, maintenance, support, services, advice, attention, counsel, guidance, protection, and reasonable contribution of pecuniary value they would, in reasonable probability, have been received from Daisy Lynn; the loss of society and companionship Plaintiffs would have, with reasonable probability, experienced if Daisy Lynn had lived; loss of inheritance; and all other damages available to Plaintiffs under Texas law.

120. Dr. Melanson seeks unliquidated damages within the jurisdictional limits of this Court.

121. Exemplary damages: Plaintiffs' injuries resulted from Dr. Melanson's gross negligence, which entitles Plaintiffs to exemplary damages under Section 41.003(a) of the Texas Civil Practice & Remedies Code section 41.003(a).

2. Against Dr. Williams

122. Plaintiffs incorporate the preceding paragraphs and the allegations they contain as if completely set forth herein and plead in the alternative if necessary.

123. Dr. Williams represented to Plaintiffs that Daisy Lynn Torres required general anesthesia to receive the "necessary" dental work Dr. Melanson would perform.

124. Dr. Williams made the representation in the course of his business as an anesthesiologist for Texan Anesthesiology.

125. In the alternative, Dr. Williams made the representation in the course of a transaction in which he had an interest. Specifically, upon information and belief, Dr. Williams stood to gain financially by convincing families like Plaintiffs to agree to unnecessary anesthetic procedures.

126. Dr. Williams made the representation for the guidance of others. Dr. Williams intended for Plaintiffs, and others, to rely on his representations in deciding to undergo anesthetic procedures.

127. Dr. Williams's representation was a misstatement of fact. Upon information and belief, he knew or should have known at the time he made his representations that Daisy Lynn did not require to be put under general anesthesia as he recommended.

128. Dr. Williams did not use reasonable care in communicating the information.

129. Plaintiffs justifiably relied on Dr. Williams's representation.

130. Dr. Williams's misrepresentation proximately caused injury to Plaintiffs, which

resulted in the following damages: Daisy Lynn's conscious physical pain and mental anguish experienced prior to her death; the pre-death terror Daisy Lynn experienced; all reasonable and necessary medical expenses for any emergency care associated with the attempts to save Daisy Lynn's life; all reasonable and necessary funeral and burial expenses for Daisy Lynn; the mental anguish, including emotional pain, torment and suffering, that Plaintiffs have experienced from Daisy Lynn's death; the pecuniary loss suffered Plaintiffs suffered because of Daisy Lynn's death, including the loss of care, maintenance, support, services, advice, attention, counsel, guidance, protection, and reasonable contribution of pecuniary value they would, in reasonable probability, have been received from Daisy Lynn; the loss of society and companionship Plaintiffs would have, with reasonable probability, experienced if Daisy Lynn had lived; loss of inheritance; and all other damages available to Plaintiffs under Texas law.

131. Dr. Williams was an employee of Texan Anesthesiology at the time of his actions described above, and took those actions within his general authority, in furtherance of Texan Anesthesiology's business, and/or for the accomplishment of the object for which Dr. Williams was hired.

132. Dr. Williams seeks unliquidated damages within the jurisdictional limits of this Court.

133. Exemplary damages: Plaintiffs' injuries resulted from Dr. Williams's gross negligence, which entitles Plaintiffs to exemplary damages under Section 41.003(a) of the Texas Civil Practice & Remedies Code section 41.003(a).

E. Fraud

1. Against Dr. Melanson

134. Plaintiffs incorporate the preceding paragraphs and the allegations they contain as

if completely set forth herein and plead in the alternative if necessary.

135. Dr. Melanson represented to Plaintiffs that the condition of Daisy Lynn's teeth required immediate and extensive dental work, including multiple pulpotomies, crowns, and fillings.

136. Dr. Melanson's representations to Plaintiffs were material because he was the only dentist Daisy Lynn had ever consulted and they placed a great deal of trust in his opinions.

137. Dr. Melanson's representations to Plaintiffs were false statements of fact. Dr. Robert Williams has independently reviewed Daisy Lynn's dental records and concluded they disclosed no signs of dental disease or pathology.

138. In the alternative, Dr. Melanson's representation to Plaintiffs were false statements of opinion Dr. Melanson knew to be false, supported with a false statement of fact, or knew Plaintiffs would justifiably rely on because of Dr. Melanson's special knowledge. Upon information and belief, the opinions Dr. Melanson gave to Plaintiffs were part of a pattern of conduct that he had repeated many times at Austin Children's Dentistry, in which he routinely recommended unnecessary dental procedures for his and Austin Children Dentistry's profit. Further, Dr. Melanson's statements in support of his opinion that Daisy Lynn required dental procedures were false. Dr. Williams's independent examination concluded Daisy Lynn did not have cavities justifying the procedures Dr. Melanson recommended.

139. In the alternative, Dr. Melanson's conduct amounted to a false representation to Plaintiffs, for all of the reasons identified in the preceding two paragraphs.

140. Dr. Melanson made the false representation knowing it was false. As discussed, the statements Dr. Melanson made to Plaintiffs were part of a pattern of conduct in which he repeatedly made false statements to families to secure their consent to perform unnecessary dental

procedures covered by Medicaid or the families' dental insurance. In the alternative, Dr. Melanson made the false representation recklessly, as a positive assertion, and without knowledge of its truth.

141. Dr. Melanson intended for Plaintiffs to rely on, or had reason to expect Plaintiffs would act in reliance on, the false representation. Dr. Melanson was the only dentist Daisy Lynn had ever visited, and Plaintiffs trusted him to give them honest and informed opinions regarding her health and care. In the alternative, Dr. Melanson had reason to expect Plaintiffs would act in reliance on the false representation, for the same reasons identified above.

142. Plaintiffs justifiably relied on Dr. Melanson's false representation when they consented to allow him to perform multiple pulpotomies, place multiple crowns, and perform multiple fillings on Daisy Lynn's baby teeth.

143. Dr. Melanson's false representation directly and proximately caused injury to Plaintiffs, which resulted in the following damages: Daisy Lynn's conscious physical pain and mental anguish experienced prior to her death; the pre-death terror Daisy Lynn experienced; all reasonable and necessary medical expenses for any emergency care associated with the attempts to save Daisy Lynn's life; all reasonable and necessary funeral and burial expenses for Daisy Lynn; the mental anguish, including emotional pain, torment and suffering, that Plaintiffs have experienced from Daisy Lynn's death; the pecuniary loss suffered Plaintiffs suffered because of Daisy Lynn's death, including the loss of care, maintenance, support, services, advice, attention, counsel, guidance, protection, and reasonable contribution of pecuniary value they would, in reasonable probability, have been received from Daisy Lynn; the loss of society and companionship Plaintiffs would have, with reasonable probability, experienced if Daisy Lynn had lived; loss of inheritance; and all other damages available to Plaintiffs under Texas law.

144. Dr. Melanson was an employee of Austin Children's Dentistry at the time of his

actions described above, and took those actions within his general authority, in furtherance of Austin Children's Dentistry's business, and/or for the accomplishment of the object for which Dr. Melanson was hired.

145. Plaintiffs seek unliquidated damages within the jurisdictional limits of this Court.

146. Exemplary damages: Plaintiffs' injuries resulted from Dr. Melanson's actual fraud or malice, which entitles Plaintiffs to exemplary damages under Section 41.003(a) of the Texas Civil Practice & Remedies Code.

2. Against Dr. Williams

147. Plaintiffs incorporate the preceding paragraphs and the allegations they contain as if completely set forth herein and plead in the alternative if necessary.

148. Dr. Williams represented to Plaintiffs that Daisy Lynn required general anesthesia to undergo the dental procedures Dr. Melanson intended to perform. Further, Dr. Williams approved the use of general anesthesia despite knowing that the dental procedures Dr. Melanson intended to perform were unnecessary.

149. Dr. Williams's representations to Plaintiffs were material because he was the only anesthetist Plaintiffs consulted regarding the procedures Dr. Melanson proposed and they placed a great deal of trust in his opinions.

150. Dr. Williams's representations to Plaintiffs were false statements of fact. General anesthesia was not required to perform the dental procedures Dr. Melanson recommended; it simply made it easier to control the child-patient for the amount of time it took to perform four pulpotomies, place four crowns, and perform two fillings. Further, the dental procedures Dr. Melanson performed were unnecessary: Dr. Robert Williams has independently reviewed Daisy Lynn's dental records and concluded they disclosed no signs of dental disease or pathology.

151. In the alternative, Dr. Williams's representation to Plaintiffs were false statements of opinion Dr. Williams knew to be false, supported with a false statement of fact, or knew Plaintiffs would justifiably rely on because of Dr. Williams's special knowledge. Upon information and belief, the opinions Dr. Melanson gave to Plaintiffs were part of a pattern of conduct that he had repeated many times at Austin Children's Dentistry (and likely other locations), in which he routinely complied with requests to unnecessarily place children under general anesthesia despite the risk of severe personal injury or death. Further, Dr. Williams's statements in support of his opinion that Daisy Lynn required dental procedures were false. Dr. Robert Williams's independent examination concluded Daisy Lynn did not have cavities justifying the procedures Dr. Melanson recommended.

152. In the alternative, Dr. Williams's conduct amounted to a false representation to Plaintiffs, for all of the reasons identified in the preceding two paragraphs.

153. Dr. Williams made the false representation knowing it was false. As discussed, the statements Dr. Williams made to Plaintiffs were part of a pattern of conduct in which he repeatedly made false statements to families to secure their consent to unnecessarily place children under general anesthesia to facilitate Austin Children's Dentistry's (and others') efforts to perform unnecessary dental procedures on infants and toddlers for their own financial gain. In the alternative, Dr. Williams made the false representation recklessly, as a positive assertion, and without knowledge of its truth.

154. Dr. Williams intended for Plaintiffs to rely on, or had reason to expect Plaintiffs would act in reliance on, the false representation. Dr. Williams was the only anesthetist Plaintiffs consulted about the need to place Daisy Lynn under general anesthesia for the procedures Dr. Melanson recommended, and Plaintiffs trusted him to give them honest and informed opinions

regarding her health and care. In the alternative, Dr. Williams had reason to expect Plaintiffs would act in reliance on the false representation, for the same reasons identified above.

155. Plaintiffs justifiably relied on Dr. Williams's false representation when they consented to allow him to place Daisy Lynn under general anesthesia while Dr. Melanson performed multiple pulpotomies, placed multiple crowns, and performed multiple fillings on Daisy Lynn's baby teeth.

156. Dr. Williams's false representation directly and proximately caused injury to Plaintiffs, which resulted in the following damages: Daisy Lynn's conscious physical pain and mental anguish experienced prior to her death; the pre-death terror Daisy Lynn experienced; all reasonable and necessary medical expenses for any emergency care associated with the attempts to save Daisy Lynn's life; all reasonable and necessary funeral and burial expenses for Daisy Lynn; the mental anguish, including emotional pain, torment and suffering, that Plaintiffs have experienced from Daisy Lynn's death; the pecuniary loss suffered Plaintiffs suffered because of Daisy Lynn's death, including the loss of care, maintenance, support, services, advice, attention, counsel, guidance, protection, and reasonable contribution of pecuniary value they would, in reasonable probability, have been received from Daisy Lynn; the loss of society and companionship Plaintiffs would have, with reasonable probability, experienced if Daisy Lynn had lived; loss of inheritance; and all other damages available to Plaintiffs under Texas law.

157. Dr. Williams was an employee of Texan Anesthesiology at the time of his actions described above, and took those actions within his general authority, in furtherance of Texan Anesthesiology's business, and/or for the accomplishment of the object for which Dr. Williams was hired.

158. Plaintiffs seek unliquidated damages within the jurisdictional limits of this Court.

159. Exemplary damages: Plaintiffs' injuries resulted from Dr. Williams's actual fraud or malice, which entitles Plaintiffs to exemplary damages under Section 41.003(a) of the Texas Civil Practice & Remedies Code.

F. Participatory Liability

1. Assisting or Encouraging against Dr. Melanson, Austin Children's Dentistry, Mr. Shohamy, Dr. Williams, and Texan Anesthesiology

160. Plaintiffs incorporate the preceding paragraphs and the allegations they contain as if completely set forth herein and plead in the alternative if necessary.

161. Dr. Melanson, Austin Children's Dentistry, Mr. Shohamy, Dr. Williams, and Texan Anesthesiology knew that each other's conduct constituted a tort or wrongful act against Daisy Lynn and Plaintiffs.

162. With the intent to assist each other in the wrongful acts, Dr. Melanson, Austin Children's Dentistry, Mr. Shohamy, Dr. Williams, and Texan Anesthesiology substantially assisted and/or encouraged each other by planning and carrying out a scheme to defraud Medicaid, insurers, and the general public by recommending and providing unnecessary dental care to infants and toddlers; requiring and incentivizing the provision of unnecessary pediatric dental care; working together to diagnose Daisy Lynn with nonexistent dental conditions; recommend and perform unnecessary and dangerous dental procedures on Daisy Lynn; and/or recommend and perform unnecessary and dangerous anesthetic procedures. These actions are part of a pattern of conduct these defendants have repeated with multiple other patient-victims and their families. Defendants' actions proximately caused Daisy Lynn's tragic and untimely death.

163. Dr. Melanson's, Austin Children's Dentistry's, Mr. Shohamy's, Dr. Williams's, and Texan Anesthesiology's assistance and/or encouragement was a substantial factor in causing the tort.

2. Assisting and Participating against Dr. Melanson, Austin Children's Dentistry, Mr. Shohamy, Dr. Williams, and Texan Anesthesiology

164. Plaintiffs incorporate the preceding paragraphs and the allegations they contain as if completely set forth herein and plead in the alternative if necessary.

165. Dr. Melanson, Austin Children's Dentistry, Mr. Shohamy, Dr. Williams, and Texan Anesthesiology substantially assisted each other by planning and carrying out a scheme to defraud Medicaid, insurers, and the general public by recommending and providing unnecessary dental care to infants and toddlers; requiring and incentivizing the provision of unnecessary pediatric dental care; working together to diagnose Daisy Lynn with nonexistent dental conditions; recommend and perform unnecessary and dangerous dental procedures; and/or recommend and perform unnecessary and dangerous anesthetic procedures. These actions are part of a pattern of conduct these defendants have repeated with multiple other patient-victims and their families. Defendants' actions proximately caused Daisy Lynn's tragic and untimely death.

166. Dr. Melanson's, Austin Children's Dentistry's, Mr. Shohamy's, Dr. Williams's, and Texan Anesthesiology's assistance and participation, separate from the others' acts, breached their duty to Plaintiffs.

167. Dr. Melanson's, Austin Children's Dentistry, Mr. Shohamy's, Dr. Williams's, and Texan Anesthesiology's assistance and participation was a substantial factor in causing the tort.

3. Concert of Action against Dr. Melanson, Austin Children's Dentistry, Mr. Shohamy, Dr. Williams, and Texan Anesthesiology

168. Plaintiffs incorporate the preceding paragraphs and the allegations they contain as if completely set forth herein and plead in the alternative if necessary.

169. Dr. Melanson, Austin Children's Dentistry, Mr. Shohamy, Dr. Williams, and Texan Anesthesiology each agreed to perform unnecessary and dangerous dental and anesthetic

procedures on patient-victims like Daisy Lynn, in order to bill Medicaid, insurers, and the general public for unnecessary dental procedures performed for their own financial gain.

170. Dr. Melanson's, Austin Children's Dentistry's, Mr. Shohamy's, Dr. Williams's, and Texan Anesthesiology's agreement to this scheme was highly dangerous and likely to cause her serious injury or death to patient-victims like Daisy Lynn.

171. Dr. Melanson's, Austin Children's Dentistry's, Mr. Shohamy's, Dr. Williams's, and Texan Anesthesiology's own acts in carrying out the agreement with each other were grossly negligent.

172. Dr. Melanson's, Austin Children's Dentistry's, Mr. Shohamy's, Dr. Williams's, and Texan Anesthesiology's own acts and the acts of others in carrying out the agreement caused injury to Plaintiffs.

VI. NOTICE OF COMPLIANCE WITH CHAPTER 74

173. As required by Sections 74.051 and 74.052 of the Texas Civil Practice & Remedies Code, Plaintiffs provided written notice of their claims by certified mail, return receipt requested, to each physician or health care provider named in this lawsuit at least 60 days before suit was filed.

174. Further, Plaintiffs included in their written notice of claims the medical authorization described in Section 74.052(c).

VII. REQUESTS FOR DISCLOSURE

175. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendants are each requested to disclose, within the time required by Rule 194.3, the information or material described in Rule 194.2.

VIII. RULE 193.7 NOTICE

176. Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiffs give notice to Defendants that any and all documents and things each defendant produces may be used against that defendant at any pretrial proceeding and/or the trial of this case without the necessity of authenticating said documents and things.

IX. JURY DEMAND

177. Plaintiffs demand a jury trial and tender the appropriate fee with this petition.

X. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully request that this Court issue citation for Defendants Michael McLanson, D.M.D., Austin Children's Dentistry, Inc., Tal Shohamy, David Williams, M.D., and Texan Anesthesiology Association, P.A., to appear and answer, and that Plaintiffs be awarded judgment against those defendants for the following:

- i. Actual damages;
- ii. Additional damages;
- iii. Exemplary damages;
- iv. Prejudgment interest and post-judgment interest at the maximum rates allowed by law;
- v. Attorney's fees;
- vi. Costs of court; and
- vii. Any other and further relief, at law or in equity, to which Plaintiffs may be justly entitled.

Dated: February 28, 2017

Respectfully submitted,

HOWRY BREEN & HERMAN, L.L.P.

/s/ Sean E. Breen

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