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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **IN AND FOR THE COUNTY OF FRESNO**

16 **TERENCE MICHAEL O'CONNOR,**
17 *an individual,*

18 Plaintiff,

19 v.

20 **COMMUNITY HOSPITAL AND MEDICAL**
21 **CENTER, a California Corporation, dba**
22 **COMMUNITY REGIONAL MEDICAL**
23 **CENTER; DONOR NETWORK WEST, INC.,**
24 *a California Corporation; and DOES 1-15,*
25 *inclusive,*

26 Defendants.

Case No.

COMPLAINT FOR:

- 1. **TORTIOUS INTERFERENCE WITH HUMAN REMAINS**
- 2. **NEGLIGENCE**
- 3. **CONVERSION**
- 4. **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
- 5. **UNFAIR BUSINESS PRACTICES**

JURY TRIAL DEMANDED

1 COMES NOW Plaintiff TERENCE MICHAEL O'CONNER who alleges the following
2 against COMMUNITY MEDICAL CENTERS, Inc., a California Corporation, dba Community
3 Regional Medical Center ("COMMUNITY HOSPITAL"); DONOR NETWORK WEST, INC., a
4 California Corporation ("DONOR NETWORK") (collectively referred to as "Defendants"); and
5 DOES 1-15, *inclusive*:

6 **I. THE PARTIES**

7 1. Plaintiff TERENCE MICHAEL O'CONNER ("PLAINTIFF") is an individual
8 residing within the City of Fresno, County of Fresno, in the State of California. PLAINTIFF is the
9 surviving father of Brittney O'Conner ("BRITTNEY"), now deceased.

10 2. Plaintiff is informed and believes, and based thereon alleges, that Defendant
11 COMMUNITY HOSPITAL is, and at all times relevant herein, was a corporation organized under
12 the laws of the State of California and doing business in the County of Fresno, State of California,
13 with a principal place of business at 2823 Fresno Street, Fresno, California 93721. Plaintiff is
14 informed and believes, and based thereon alleges, that COMMUNITY HOSPITAL is the medical
15 center where BRITTNEY died.

16 3. Plaintiff is informed and believes, and based thereon alleges, that Defendant
17 DONOR NETWORK is a California Corporation with its principal offices in San Ramon,
18 California, and does business in Fresno County, California.

19 5. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as
20 DOES 1 through 5, inclusive, and therefore sue Defendants by such fictitious names. Plaintiff is
21 informed and believes, and based thereon alleges, that Defendants are in some way liable to Plaintiff
22 for tortious interference with the human remains of PLAINTIFF's daughter, and therefore sue said
23 defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names,
24 identities and capacities when the same have been ascertained.

25 6. Plaintiff is informed and believes, and thereon alleges, that at all times relevant
26 herein, Defendants, including those named herein as DOES 6 through 15, were principals, persons,
27 physicians, laboratories, entities, partnerships, corporations, professional partnerships/corporations,

1 who acted as the agents or principal of each other and in doing the acts alleged herein, they acted
2 within the purpose, scope, course and parameters of that agent/principal relationship and with the
3 knowledge and/or consent, either express or implied, of the remaining Defendants and that
4 Plaintiff's losses and damages, as herein alleged, were proximately caused by and the result of the
5 Defendants' intentional and/or negligent, direct and/or indirect, actions and/or omissions.

6 **II. JURISDICTION AND VENUE**

7 11. This Court has jurisdiction over each and every defendant named herein because
8 they conduct business in California.

9 12. Venue is proper in this Court because Defendants' wrongful acts and Plaintiffs'
10 injuries occurred within the County of Fresno. The acts and injuries literally took place on
11 COMMUNITY HOSPITAL's premises. Defendant DONOR NETWORK directed its activities at
12 BRITTNEY, PLAINTIFF, and Brittney's mother while BRITTNEY was at COMMUNITY
13 HOSPITAL in Fresno, California. Therefore, venue is proper in the County of Fresno pursuant to
14 California Code of Civil Procedure sections 395 and 395.5.

15 **III. GENERAL ALLEGATIONS**

16 13. On or about November 17, 2017, BRITTNEY was admitted to COMMUNITY
17 HOSPITAL with a strangling injury. PLAINTIFF was contacted and informed that his daughter
18 had suffered a strangling injury and had been admitted to Community Hospital.

19 14. On such date, at COMMUNITY HOSPITAL, PLAINTIFF met with BRITTNEY's
20 treating doctors, and as a result of those meetings, understood that BRITTNEY was in a deep coma
21 but alive. PLAINTIFF discussed treatment options with the doctors.

22 15. Over the course of the next few days, PLAINTIFF was told by medical staff at
23 COMMUNITY HOSPITAL that BRITTNEY was still alive and still had a one percent chance of
24 survival. PLAINTIFF committed himself to attempting to keep his daughter alive. Plaintiffs was
25 adamant that because his daughter still had a chance at survival, he was opposed to the harvesting
26 and donation of her organs.

1 16. On or about November 23, 2017, PLAINTIFF was informed by COMMUNITY
2 HOSPITAL's medical staff that BRITTNEY was brain dead. PLAINTIFF demanded a second
3 opinion, but the medical staff at COMMUNITY HOSPITAL informed PLAINTIFF that they had
4 already obtained a second opinion and PLAINTIFF would not be allowed to do so. Plaintiff was
5 given 3 minutes to 'say goodbye to his daughter and leave the hospital'. BRITTNEY's death
6 certificate indicates that she died on November 24, 2017.

7 17. Before BRITTNEY's death, DONOR NETWORK approached BRITTNEY's
8 mother and PLAINTIFF about the possibility of donating BRITTNEY's organs and other body
9 parts after her death. PLAINTIFF wanted nothing to do with removing his daughter's organs or
10 body parts as he was still committed to keeping her alive. He made clear to DONOR NETWORK,
11 the hospital staff and BRITTNEY's mother that he objected to the removal of BRITTNEY's organs
12 or body parts and that he did not consent to BRITTNEY's organs or body parts being removed. At
13 no point did PLAINTIFF consent to such, and his objections were strong enough that staff called
14 for security and the police, essentially threatening PLAINTIFF at the time of his daughter's
15 impending death.

16 18. On information and belief, PLAINTIFF alleges that employees, agents, or
17 representatives of DONOR NETWORK extracted and harvested BRITTANY's organs on the
18 premises and through the assistance of, joint-venture with, or participation of COMMUNITY
19 HOSPITAL.

20 19. At all relevant times, Defendants knew or should have known that PLAINTIFF and
21 BRITTNEY's mother were the persons designated by law as having the legal right to determine the
22 disposition and burial of their daughter BRITTNEY's human remains. (California Health and
23 Safety Code § 7100.) BRITTNEY had never signed any instructions regarding donation of her
24 organs after death. Defendants knew or should have known that BRITTNEY's body parts and
25 organs could not be harvested after death without the consent of both of her parents. (California
26 Health and Safety Code § 7150.40.)

27 20. By reason of the father/daughter relationship of PLAINTIFF and BRITTNEY,
28 PLAINTIFF was at all times after BRITTNEY's death entitled to immediate custody and

1 possession of BRITTNEY's human remains, to determine in conjunction with BRITTANY's
2 mother the proper disposition of said remains, including her organs.

3 **IV. CAUSES OF ACTION**

4 **First Cause of Action**

5 **(Against All Defendants)**

6 **(Tortious Interference with Decedent's Remains)**

7 22. On or about November 25 and 27, 2017, while BRITTNEY's remains were
8 wrongfully controlled by Defendants, and each of them unlawfully, without proper and effective
9 legal authorization or valid permission of both of her parents, and without PLAINTIFF's express
10 consent, and against his will, permitted, performed and assisted in harvesting organs and body parts
11 from BRITTNEY's dead body, and in doing so mutilated, desecrated, violated and outraged
12 BRITTNEY's human remains.

13 23. The harvesting of BRITTNEY's organs and body parts interfered with
14 PLAINTIFF's right to dispose of and inter the human remains of his daughter BRITTNEY, contrary
15 to the wishes and beliefs of PLAINTIFF and while PLAINTIFF believed that there still might be a
16 chance to save his daughter's life.

17 24. Moreover, PLAINTIFF believed there was a possibility that BRITTANY had been
18 murdered and had not committed suicide, as assumed by others, including COMMUNITY
19 HOSPITAL. As such, PLAINTIFF believed that once BRITTANY was declared dead, an autopsy
20 should have been performed by the Fresno County Coroner in the cause of her death. Harvesting
21 and donation of BRITTANY's organs made an autopsy impossible.

22 25. This interference was willful in that Defendants failed to obtain the permission and
23 authorization of PLAINTIFF as one of the two surviving parents of BRITTNEY and the person
24 possessing a co-equal legal right to determine the disposition and burial of BRITTNEY's remains
25 prior to Defendants' tortious interference.

26 26. Defendants' mutilation, desecration and violation of BRITTNEY's body is and was
27 repugnant, offensive, and insulting to PLAINTIFF and his beliefs, and learning of Defendants'
28 mutilation, desecration and violation of BRITTNEY's body, and thereafter, caused PLAINTIFF

1 extreme mental anguish and disgust and disturbed his peace of mind causing him to become
2 permanently sick in mind and body.

3 27. By reason of Defendants' acts PLAINTIFF has been damaged.

4 WHEREFORE, PLAINTIFF prays judgment as set forth below.

5 **Second Cause of Action**

6 **(Negligence)**

7 **(Against All Defendants)**

8 28. PLAINTIFF hereby incorporates into this Cause of Action paragraphs 1-24 and 26-
9 27 of this Complaint as if set forth herein in full.

10 29. Defendants owed PLAINTIFF a duty to properly handle the humans remains of
11 PLAINTIFF's daughter BRITTNEY.

12 30. Defendants breached such duty as alleged hereinabove.

13 31. By reason of Defendants' acts PLAINTIFF has been damaged.

14 WHEREFORE, PLAINTIFF prays judgment as set forth below.

15 **Third Cause of Action**

16 **(Conversion)**

17 **(Against All Defendants)**

18 32. PLAINTIFF hereby incorporates into this Cause of Action paragraphs 1-27 as if set
19 full herein in full.

20 33. Defendants substantially interfered with Plaintiff's co-right to dispose of the remains
21 of his daughter by knowingly or intentionally removing his daughter's organs and body parts without
22 Plaintiff's consent, and taking possession of BRITTANY'S human remains and preventing Plaintiff
23 from doing so.

24 34. Plaintiff was harmed as a proximate result of Defendants' conduct.

25 35. PLAINTIFF is informed and believes, and thereon alleges, that Defendants have
26 profited materially through the wrongful transfer for value of BRITTANY's organs and body parts.
27 Defendants should not be allowed to profit from their wrongful acts and therefore any value received
28 by Defendants for such organs and body parts must be disgorged.

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PRAYER

WHEREFORE, PLAINTIFF requests trial by jury on all claims so triable and prays for judgment against Defendants, and DOES 1 through 15, inclusive, as appropriate to each cause of action alleged, as set forth below:

- A. For compensatory damages according to proof;
- B. For emotional distress;
- C. For interest to the extent allowed by law;
- D. For costs of suit herein incurred;
- E. For disgorgement of all profits and benefits;
- F. For punitive damages; and
- G. For such other and further relief as the court may deem proper.

Dated: ^{April} ~~March~~ 3, 2018

Respectfully submitted,
YARRA LAW GROUP



By: H. TY KHARAZI
Attorneys for PLAINTIFF

THORNTON DAVIDSON, P.C.



By: THORNTON DAVIDSON
Attorneys for PLAINTIFF