**IN THE STATE COURT OF GEORGIA COUNTY**

**STATE OF GEORGIA**

JANE DOE and )

JOHN DOE, Individually )

and as Natural Parents, Guardians, and ) CIVIL ACTION FILE NO. \_\_\_\_\_\_\_\_\_\_\_\_\_

Next Friends of MINOR DOE, )

a Minor )

) **JURY TRIAL DEMANDED**

Plaintiffs, )

)

v. )

)

HOSPITAL )

and DOCTOR )

)

Defendants )

)

**COMPLAINT**

**COME NOW,** Plaintiffs Jane Doe and John Doe, individually and as natural parents, guardians, and next friends of Minor Doe, a minor, and file this Complaint against the above-named Defendants, showing the Court and Jury the following:

**Parties, Jurisdiction, Venue, And Service of Process**

Plaintiffs Jane Doe and John Doe are the natural parents, guardians, and next friends of Minor Doe, a minor. They reside in Georgia County.

2.

Defendant Hospital is a domestic non-profit corporation organized under the laws of the State of Georgia and is authorized to conduct business in the State of Georgia. Defendant Hospital’s principal place of business is located at Address, Georgia, 30000. Defendant Hospital may be served through its registered agent, Registered Agent, Address, Georgia 30000. Defendant Hospital is subject to the jurisdiction and venue of this Court.

3.

At all relevant times alleged herein, Defendant Hospital owned and operated Hospital, located at Address, Georgia 30000.

4.

Defendant Doctor is a physician licensed to practice medicine in the State of Georgia.

5.

Defendant Doctor had staff privileges at Hospital when he cared for and treated Plaintiff Minor Doe in Georgia County on April 3, 2018.

6.

Defendant Doctor was an employee and/or agent of Defendant Hospital when he cared for and treated Plaintiff Minor Doe in Georgia County on April 3, 2018.

7.

Defendant Doctor currently resides in City, State.

8.

At all relevant time alleged herein, Defendant Doctor acted within the course and scope of his employment and/or agency with Defendant Hospital.

9.

As the employer and/or principal of its employee and/or agent Defendant Doctor at all times relevant herein, Defendant Hospital is responsible to Minor Doe and Plaintiffs Jane Doe and John Doe for all negligent acts and omissions that Defendant Doctor committed during the course of treating Minor Doe pursuant to the principles of *respondeat superior*, actual, apparent, and ostensible agency.

10.

At all relevant time alleged herein, the named Defendants had a medical provider/doctor/hospital-patient relationship with Minor Doe.

11.

Defendants were joint tortfeasors and are jointly and severally liable to the Plaintiffs for negligent acts and omissions described and alleged herein.

12.

The acts as set forth herein giving rise to this cause of action occurred in Georgia County, Georgia, within the jurisdiction of this Court.

13.

Defendants are subject to this Court’s jurisdiction and venue pursuant to Ga. Const. Art. IV, § II, ¶ IV, O.C.G.A. §§ 9-10-31, 9-10-91, 14-2-510, 14-11-1108, and other applicable law.

**FACTS**

14.

On May 18, 2017, Minor Doe underwent a CT of her temporal bones that was indicated because she had right-sided hearing loss, chronic ear infections, and a cholesteatoma in her left ear.

15.

The CT showed findings consistent with a cholesteatoma in Minor Doe’s right ear.

16.

On January 16, 2018, Plaintiffs agreed to allow Defendant Doctor to perform surgery characterized as right tympanoplasty and mastoidectomy with ossicular chain reconstruction on Minor Doe.

17.

On April 3, 2018, Defendant Doctor performed a right canal wall down mastoidectomy, tympanoplasty, and ossicular chain reconstruction on Minor Doe.

18.

A cholesteatoma was present in Minor Doe’s right ear on April 3, 2018.

19.

During the April 3, 2018 surgery, Defendant Doctor transected Minor Doe’s right facial nerve.

20.

Defendant Doctor transected Minor Doe’s right facial nerve with a drill during the April 3, 2018 surgery.

21.

During the April 3, 2018 surgery, Defendant Doctor penetrated Minor Doe’s right stapes foot plate with a prosthesis that was placed into the bottom of the right vestibule.

22.

During the April 3, 2018 surgery, Defendant Doctor created a tegmen defect with CSF otorrhea when he penetrated Minor Doe’s stapes foot plate with a prosthesis that was placed into the bottom of the right vestibule.

23.

During the April 3, 2018 surgery, Defendant Doctor did not completely remove the cholesteatoma in Minor Doe’s right ear.

24.

As a result of Defendant Doctor’s negligence during the April 3, 2018 surgery, Minor Doe suffers permanent injuries including: right side facial paralysis; facial asymmetry; severe loss of hearing in her right ear; disfigurement; inability to smile fully; difficulty drinking from straws and cups; difficulty moving food around her mouth; difficulty speaking that worsens with fatigue; inability to completely close her right eye; right eye irritability and blurry vision; facial pain; and social isolation.

**COUNT I**

**Specific Act of Professional Negligence Required by O.C.G.A. § 9-11-9.1**

25.

Plaintiffs hereby incorporate their allegations from Paragraphs 1 – 24 as fully set forth herein.

26.

In his care and treatment of Minor Doe on April 3, 2018 and thereafter, Defendant Doctor was required to exercise that degree of care, skill and diligence generally exercised by members of his profession under the same or similar circumstances.

27.

In his care and treatment of Minor Doe on April 3, 2018 and thereafter, Defendant Doctor failed to exercise that degree of care, skill and diligence generally exercised by members of his profession under the same or similar circumstances.

28.

In support of Plaintiffs’ claims against Defendant Doctor, and in full compliance with O.C.G.A. §§ 9-11-9.1 and 24-7-702, Plaintiffs attach as Exhibit “1” the Affidavit of Expert A, M.D. which sets forth at least one negligent act or omission on the part of Defendant Doctor. Plaintiffs incorporate the information set forth in said affidavit as if fully set forth herein.

29.

As a direct and proximate result of Defendant Doctor’s negligence, Minor Doe suffered and will continue to suffer past, present, and future physical, mental, and emotional pain and suffering.

30.

As a direct and proximate result of Defendant Doctor’s negligence, Plaintiffs have incurred and will continue to incur medical expenses.

31.

Defendant Hospital is vicariously liable for all of the negligent acts and/or omissions described herein of its agent and employee, Defendant Doctor.

32.

Defendants are joint tortfeasors and as such are jointly and severally liable to the Plaintiffs for the negligent acts and omissions described and alleged herein.

**COUNT II**

**Claims for Negligence, Misrepresentation, and Negligent Hiring, etc.**

33.

Plaintiffs hereby incorporate their allegations from Paragraphs 1 – 32 as fully set forth herein.

34.

Defendant Hospital was negligent in its hiring, credentialing, training and supervision of Defendant Doctor.

35.

As a direct and proximate result of Defendant HOSPITAL’s negligent hiring, credentialing, training, and supervision of Defendant Doctor, Minor Doe suffered and will continue to suffer past, present, and future physical, mental, and emotional pain and suffering.

36.

As a direct and proximate result of Defendant Hospital’s negligent hiring, credentialing, training, and supervision of Defendant Doctor, Plaintiffs have incurred and will continue to incur medical expenses.

**COUNT III**

**Damages**

37.

Plaintiffs hereby incorporate their allegations from Paragraphs 1 – 36 as fully set forth herein.

38.

As a direct and proximate result of Defendants’ negligence, Minor Doe suffered and continues to suffer severe, disabling physical injuries including right side facial paralysis and loss of hearing in her right ear; and mental and emotional injuries.

39.

Plaintiffs Jane Doe and John Doe have and will continue to incur medical expenses as a direct and proximate result of Defendants negligence.

40.

Plaintiffs are entitled to recover for Minor Doe’s past, present, and future personal injuries; past present and future medical and related expenses; and past present and future physical, mental and emotional pain and suffering.

WHEREFORE, Jane Doe and John Doe request as follows:

1. That Plaintiffs have judgment against the Defendants, jointly and severally, for sums in excess of $10,000 in addition to their special damages;
2. That Plaintiffs have a jury at any trial of this matter;
3. That Plaintiffs have such other and further relief as this Court deems equitable and proper.

This \_\_\_ day of \_\_\_\_\_\_\_\_\_, 2021.