

Mecklenburg Superior Court

Case Summary

Case No. 05CVSo11118-590

JOSEPH STANLY JABKIEWICZ VS JOSEPH G JEMSEK

§

Location: Mecklenburg Superior Court

§

Filed on: 06/20/2005

§

Microfilm Number: 07 105 9999

§

Microfilm Number: 07 157 9999

Case Information

File Date 06/20/2005

Filed By

JABKIEWICZ, JOSEPH STANLY

JABKIEWICZ, KATHLEEN MARIE ESTATE OF

Cause of Action

CV - Medical Malpractice

Filed Against

JEMSEK, JOSEPH G

ROESKE, CHRISTIE RNP

JEMSEK CLINIC PA THE

Case Type: General Civil Action

Case Status: 09/13/2007 Disposed - Voluntary Dismissal

Description/Remedy

Action

Action - 2005-06-20

File Date 06/20/2005

JABKIEWICZ, JOSEPH STANLY

JABKIEWICZ, JOSEPH STANLY

JABKIEWICZ, MATTHEW JOSEPH

Filed By JABKIEWICZ, MICHAEL STEVEN

Cause of Action

CV - Medical Malpractice

JEMSEK, JOSEPH G

ROESKE, CHRISTIE RNP

Filed Against JEMSEK CLINIC PA THE

Description/Remedy

Action

Action - 2005-06-20

File Date 06/20/2005

JABKIEWICZ, JOSEPH STANLY

JABKIEWICZ, JOSEPH STANLY

JABKIEWICZ, MATTHEW JOSEPH

Filed By JABKIEWICZ, MICHAEL STEVEN

Cause of Action

CV - Other

JEMSEK, JOSEPH G

ROESKE, CHRISTIE RNP

Filed Against JEMSEK CLINIC PA THE

Description/Remedy

Action

PERONAL INJURIES AND WRONGFUL DEATH Action - 2005-06-20

File Date 05/31/2006

JABKIEWICZ, JOSEPH STANLY

JABKIEWICZ, KATHLEEN MARIE ESTATE OF

JABKIEWICZ, JOSEPH STANLY

JABKIEWICZ, JOSEPH STANLY

JABKIEWICZ, MATTHEW JOSEPH

Filed By JABKIEWICZ, MICHAEL STEVEN

Cause of Action

CV - Other

JEMSEK, JOSEPH G

ROESKE, CHRISTIE RNP

Filed Against JEMSEK CLINIC PA THE

Description/Remedy

Action

CONSENT DISCOVERY ORDER Action - 2006-05-31

File Date 09/19/2007

JABKIEWICZ, JOSEPH STANLY

JABKIEWICZ, KATHLEEN MARIE ESTATE OF

JABKIEWICZ, JOSEPH STANLY

JABKIEWICZ, JOSEPH STANLY

JABKIEWICZ, MATTHEW JOSEPH

Filed By JABKIEWICZ, MICHAEL STEVEN

Cause of Action

CV - Other

JEMSEK, JOSEPH G

ROESKE, CHRISTIE RNP

Filed Against JEMSEK CLINIC PA THE

Description/Remedy

Action

Mecklenburg Superior Court

Case Summary

Case No. 05CVS011118-590

ORDER APPROVING SETTLEMENT AGREEMENT Action - 2007-09-19

Assignment Information

Current Case Assignment

Case Number 05CVS011118-590
Court Mecklenburg Superior Court
Date Assigned 06/20/2005

Party Information

Plaintiff	JABKIEWICZ, JOSEPH STANLY	ROGERS, ERIC ALLEN <i>Retained</i>
		SPEARS, HAROLD C. <i>Retained</i>
	JABKIEWICZ, JOSEPH STANLY GUARDIAN AD LITEM	SPEARS, HAROLD C. <i>Retained</i>
	JABKIEWICZ, JOSEPH STANLY ADMINISTRATOR	ROGERS, ERIC ALLEN <i>Retained</i>
		SPEARS, HAROLD C. <i>Retained</i>
	JABKIEWICZ, KATHLEEN MARIE ESTATE OF	ROGERS, ERIC ALLEN <i>Retained</i>
		SPEARS, HAROLD C. <i>Retained</i>
	JABKIEWICZ, MATTHEW JOSEPH MINOR	SPEARS, HAROLD C. <i>Retained</i>
	JABKIEWICZ, MICHAEL STEVEN MINOR	SPEARS, HAROLD C. <i>Retained</i>
Defendant	JEMSEK, JOSEPH G	DERR, TRICIA M. <i>Retained</i>
	JEMSEK CLINIC PA THE	DERR, TRICIA M. <i>Retained</i>
	ROESKE, CHRISTIE RNP	DERR, TRICIA M. <i>Retained</i>
Arbitrator/Mediator	HUCKEL, WAYNE P P.O. BOX 12737 CHARLOTTE, NC 28220	

Causes of Action

06/20/2005 **Cause of Action** CV - Other (PERONAL INJURIES AND WRONGFUL DEATH Action - 2005-06-20)
Filed By JABKIEWICZ, JOSEPH STANLY; JABKIEWICZ, JOSEPH STANLY; JABKIEWICZ, MATTHEW JOSEPH;
JABKIEWICZ, MICHAEL STEVEN
Filed Against JEMSEK, JOSEPH G; ROESKE, CHRISTIE RNP; JEMSEK CLINIC PA THE
Action Type Action

05/31/2006 **Cause of Action** CV - Other (CONSENT DISCOVERY ORDER Action - 2006-05-31)

Mecklenburg Superior Court

Case Summary

Case No. 05CVSo11118-590

Filed By

JABKIEWICZ, JOSEPH STANLY; JABKIEWICZ, KATHLEEN MARIE ESTATE OF; JABKIEWICZ, JOSEPH STANLY;
JABKIEWICZ, JOSEPH STANLY; JABKIEWICZ, MATTHEW JOSEPH; JABKIEWICZ, MICHAEL STEVEN

Filed Against JEMSEK, JOSEPH G; ROESKE, CHRISTIE RNP; JEMSEK CLINIC PA THE

Action Type Action

06/20/2005 **Cause of Action** CV - Medical Malpractice (Action - 2005-06-20)

Filed By JABKIEWICZ, JOSEPH STANLY; JABKIEWICZ, KATHLEEN MARIE ESTATE OF

Filed Against JEMSEK, JOSEPH G; ROESKE, CHRISTIE RNP; JEMSEK CLINIC PA THE

Action Type Action

06/20/2005 **Cause of Action** CV - Medical Malpractice (Action - 2005-06-20)

Filed By

JABKIEWICZ, JOSEPH STANLY; JABKIEWICZ, JOSEPH STANLY; JABKIEWICZ, MATTHEW JOSEPH;
JABKIEWICZ, MICHAEL STEVEN

Filed Against JEMSEK, JOSEPH G; ROESKE, CHRISTIE RNP; JEMSEK CLINIC PA THE

Action Type Action

09/19/2007 **Cause of Action** CV - Other (ORDER APPROVING SETTLEMENT AGREEMENT Action - 2007-09-19)

Filed By

JABKIEWICZ, JOSEPH STANLY; JABKIEWICZ, KATHLEEN MARIE ESTATE OF; JABKIEWICZ, JOSEPH STANLY;
JABKIEWICZ, JOSEPH STANLY; JABKIEWICZ, MATTHEW JOSEPH; JABKIEWICZ, MICHAEL STEVEN

Filed Against JEMSEK, JOSEPH G; ROESKE, CHRISTIE RNP; JEMSEK CLINIC PA THE

Action Type Action

Case Events

09/19/2007 FILING

CV - Other : ORDER APPROVING SETTLEMENT AGREEMENT Action - 2007-09-19

Created: 09/19/2007 12:00 AM

09/13/2007 Reinstatement from Bankruptcy

REINSTATEMENT FROM BANKRUPCTCY

Filed By: Defendant JEMSEK, JOSEPH G

Created: 09/13/2007 12:00 AM

09/13/2007 Reinstatement from Bankruptcy

REINSTATEMENT FROM BANKRUPCTCY

Filed By: Defendant JEMSEK CLINIC PA THE

Created: 09/13/2007 12:00 AM

12/06/2006 Bankruptcy Documents

NOTICE OF BANKRUPTCY

Filed By: Defendant JEMSEK, JOSEPH G

Created: 12/06/2006 12:00 AM

12/06/2006 Bankruptcy Documents

NOTICE OF BANKRUPTCY

Filed By: Defendant JEMSEK CLINIC PA THE

Created: 12/06/2006 12:00 AM

05/31/2006 Amended Pleading

CV - Other : CONSENT DISCOVERY ORDER Action - 2006-05-31

Created: 05/31/2006 12:00 AM

12/30/2005 Motion

Created: 12/30/2005 12:00 AM

12/30/2005 Motion

Created: 12/30/2005 12:00 AM

12/30/2005 Motion

Created: 12/30/2005 12:00 AM

12/30/2005 Compel

Filed By: Plaintiff JABKIEWICZ, JOSEPH STANLY;

Mecklenburg Superior Court

Case Summary

Case No. 05CVSo11118-590

Plaintiff JABKIEWICZ, KATHLEEN MARIE ESTATE OF;
Plaintiff JABKIEWICZ, JOSEPH STANLY;
Plaintiff JABKIEWICZ, JOSEPH STANLY;
Plaintiff JABKIEWICZ, MATTHEW JOSEPH;
Plaintiff JABKIEWICZ, MICHAEL STEVEN

Against: Defendant JEMSEK, JOSEPH G;
Defendant JEMSEK CLINIC PA THE;
Defendant ROESKE, CHRISTIE RNP

Created: 12/30/2005 12:00 AM

11/28/2005 Motion

Created: 11/28/2005 12:00 AM

08/29/2005 Answer

ANSWER/REPLY

Filed By: Defendant JEMSEK, JOSEPH G;
Defendant JEMSEK CLINIC PA THE;
Defendant ROESKE, CHRISTIE RNP

Created: 08/29/2005 12:00 AM

06/20/2005 Complaint

CV - Medical Malpractice : Action - 2005-06-20

Created: 06/20/2005 12:00 AM

06/20/2005 Complaint

CV - Other : PERONAL INJURIES AND WRONGFUL DEATH Action - 2005-06-20

CV - Medical Malpractice : Action - 2005-06-20

Created: 06/20/2005 12:00 AM

06/20/2005 Reg Summons

Against: Defendant JEMSEK, JOSEPH G

CV - Other : PERONAL INJURIES AND WRONGFUL DEATH Action - 2005-06-20

Created: 06/20/2005 12:00 AM

06/20/2005 Reg Summons

Against: Defendant ROESKE, CHRISTIE RNP

CV - Other : PERONAL INJURIES AND WRONGFUL DEATH Action - 2005-06-20

Created: 06/20/2005 12:00 AM

06/20/2005 Reg Summons

Against: Defendant JEMSEK CLINIC PA THE

CV - Other : PERONAL INJURIES AND WRONGFUL DEATH Action - 2005-06-20

Created: 06/20/2005 12:00 AM

Dispositions

09/19/2007 **Granted in Whole or Part**

CV - Other : ORDER APPROVING SETTLEMENT AGREEMENT Action - 2007-09-19

Created: 09/19/2007 12:00 AM

09/13/2007 **Voluntary Dismissal**

CV - Medical Malpractice : Action - 2005-06-20

Created: 09/13/2007 12:00 AM

05/31/2006 **Granted in Whole or Part**

CV - Other : CONSENT DISCOVERY ORDER Action - 2006-05-31

Created: 05/31/2006 12:00 AM

02/23/2006 **Voluntary Dismissal**

CV - Other : PERONAL INJURIES AND WRONGFUL DEATH Action - 2005-06-20

Created: 02/23/2006 12:00 AM

02/23/2006 **Voluntary Dismissal**

Mecklenburg Superior Court

Case Summary

Case No. 05CVSo11118-590

CV - Medical Malpractice : Action - 2005-06-20

Created: 02/23/2006 12:00 AM

Hearings

08/29/2007 **Other Hearing** (12:00 AM)

*AM - ADR HEARING Type: AD - MED DEADLINE (ADR) ***8/22-SEE FILE BEFORE SENDING OUT ANOTHER NOTICE**MED DEADLINE - CASE IS STAYED AND CLOSED CASE PAST DUE NOTICE SHOULD NOT HAVE GONE OUT. PARTIES CURRENTLY HAVE MED SCHEDULED FOR 8/9/07 SO THERE IS OBVIOUSLY SOME ACTION IN THIS CASE.*

Resource: Location NLL No Legacy Location

Created: 08/29/2007 12:00 AM

07/09/2007 **Non-Jury Trial** (12:00 AM)

TRIAL SETTING Type: TR - TRIAL 5/16 consent order signed that administratively closes action until bank issue resolved; ONLY REMAINING DEFENDANT SHOULD BE ROESKE,CHRISTIE RNP, JEMSEK AND JEMSEK CLINIC FILED BANK; PEREMPTORY, PER AMENDED CDO

Resource: Location NLL No Legacy Location

Created: 07/09/2007 12:00 AM

06/01/2007 **Other Hearing** (12:00 AM)

AM - ADR HEARING Type: AD - MED DEADLINE (ADR) MED DEADLINE

Resource: Location NLL No Legacy Location

Created: 06/01/2007 12:00 AM

03/12/2007 **Non-Jury Trial** (12:00 AM)

TRIAL SETTING Type: CONTINUED CONT BY AMENDED CDO; PEREMPTORY

Resource: Location NLL No Legacy Location

Created: 03/12/2007 12:00 AM

01/01/2007 **Other Hearing** (12:00 AM)

AM - ADR HEARING Type: AD - MED DEADLINE (ADR)

Resource: Location NLL No Legacy Location

Created: 01/01/2007 12:00 AM

11/10/2006 **Other Hearing** (12:00 AM)

AM - ADR HEARING Type: AD - MED DEADLINE (ADR) MED DEADLINE

Resource: Location NLL No Legacy Location

Created: 11/10/2006 12:00 AM

01/09/2006 **Motion Hearing - Other** (10:00 AM)

AM2 - MOTIONS FOR PUBL. Type: MM MEDICAL MALPRACTICE DISCOVERY CONFERENCE (ROGERS)and MOTION TO COMPEL (ROGERS) AND MOTION FOR PROTECTIVE ORDER (DEFENDANT'S MOTION SET BY ROGERS)

Resource: Location NLL No Legacy Location

Created: 01/09/2006 12:00 AM

11/28/2005 **Motion Hearing - Other** (10:00 AM)

AM2 - MOTIONS FOR PUBL. Type: CONTINUED CONT FOR ROGERS - MEDICAL MALPRACTICE DISCOVERY CONFERENCE

Resource: Location NLL No Legacy Location

Created: 11/28/2005 12:00 AM

STATE OF NORTH CAROLINA FILED IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF MECKLENBURG 2005 JUN 20 AM 11:47 05-CVS-11118

MECKLENBURG COUNTY, C.S.C.

JOSEPH STANLY JABKIEWICZ,)
Administrator of the ESTATE OF)
KATHLEEN MARIE JABKIEWICZ, and)
JOSEPH STANLY JABKIEWICZ,)
Individually, and as Guardian Ad Litem for)
Minors MATTHEW JOSEPH)
JABKIEWICZ and MICHAEL STEVEN)
JABKIEWICZ,)
Plaintiffs,)

vs.)

COMPLAINT

JOSEPH G. JEMSEK, M.D.,)
CHRISTIE ROESKE, R.N.P., and)
THE JEMSEK CLINIC, P.A.,)
Defendants.)

The Plaintiffs complaining of the Defendants, allege and say:

FIRST CLAIM FOR RELIEF
(Personal Injuries and Wrongful Death)

1. Plaintiff Joseph Stanly Jabkiewicz ("Joseph Jabkiewicz") is a resident of Cabarrus County, North Carolina. He is the duly appointed and acting Administrator of the Estate of Kathleen Marie Jabkiewicz and the duly appointed and acting Guardian ad Litem of the Minor Plaintiffs, Matthew Joseph Jabkiewicz and Michael Steven Jabkiewicz (the "Minor Plaintiffs").

2. The Minor Plaintiffs are minors and reside with their father, Plaintiff Joseph Jabkiewicz, in Cabarrus County, North Carolina. The Deceased, Kathleen Marie Jabkiewicz, was their mother and the wife of Joseph Jabkiewicz.

3. Defendant Jemsek Clinic, P.A. ("Jemsek Clinic") is a North Carolina professional association having its principal offices and place of business located in Mecklenburg County, North Carolina.

4. Defendant Joseph G. Jemsek, M.D. ("Dr. Jemsek") is a resident of Mecklenburg County, North Carolina, and is licensed to practice medicine in the State of North Carolina.

5. Defendant Christie Roeske, R.N.P., ("Nurse Roeske") is a resident of Mecklenburg County, North Carolina, and is a registered nurse practitioner licensed to practice nursing in the State of North Carolina.

6. At all times referred to herein, Dr. Jemsek held himself out to the public and to Kathleen Marie Jabkiewicz and her family as an expert in the field of infectious disease.

7. At all times referred to herein, Dr. Jemsek was employed by or the agent of the Jemsek Clinic and was acting within the course and scope of his employment or agency with the Jemsek Clinic.

8. At all times referred to herein, Nurse Roeske was employed by the Jemsek Clinic and was acting within the course and scope of her employment with the Jemsek Clinic.

9. The Jemsek Clinic is legally responsible and liable for the acts and omissions of Dr. Jemsek and Nurse Roeske in that they were the duly authorized and acting employees or agents of the Jemsek Clinic at all times referred to herein.

10. During the course of Kathleen Marie Jabkiewicz's treatment by Defendants, the Defendants accepted and treated her as a paying patient and examined her and rendered medical treatment to her in connection with her care.

11. On or about November 9, 2001, Kathleen Marie Jabkiewicz presented herself to North Charlotte Medical Specialists complaining of general symptoms of malaise, body aches, and migraine headaches.

12. On or about February 12, 2002, Dr. Jennifer Burke ("Dr. Burke") referred Kathleen Marie Jabkiewicz to Dr. Jemsek, and after an initial consultation or examination, Dr. Jemsek reportedly suspected Lyme disease as the cause of Kathleen Marie Jabkiewicz's symptoms.

13. On or about February 25, 2002, under the direction of Dr. Jemsek, Kathleen Marie Jabkiewicz's blood samples were taken and tested for Lyme disease by Laboratory Corporation of America. The results were negative.

14. On or about March 12, 2002, Medical Diagnostic Laboratories performed a second Lyme disease test. The test results proved to be inconclusive for Lyme disease.

15. On or about February 25, 2002, Dr. Jemsek discontinued Kathleen Marie Jabkiewicz's use of the anti-depressant drug known as Prozac; and on or about March 12, 2002, Dr. Jemsek diagnosed Kathleen Marie Jabkiewicz with Lyme disease and thereafter placed her on a protocol of antibiotic drug therapy.

16. Prior to Dr. Jemsek's diagnosis, Cabarrus Health Alliance gainfully employed Kathleen Marie Jabkiewicz as a registered nurse.

17. After Kathleen Marie Jabkiewicz's diagnosis and initial treatments by Dr. Jemsek, she became unable to continue her employment with Cabarrus Health Alliance.

18. On or about April 17, 2002, Kathleen Marie Jabkiewicz began to experience psychogenic seizures. Dr. Jemsek prescribed medications that were primarily intended to treat epileptic seizures.

19. Additionally, under the direction of Dr. Jemsek, a PICC line was placed into Kathleen Marie Jabkiewicz's left arm purportedly to assist in the ongoing antibiotic infusion treatments being prescribed to her by Dr. Jemsek.

20. On or about August 13, 2003, Kathleen Marie Jabkiewicz presented herself to James Riddell, M.D. ("Dr. Riddell") at the University of Michigan. Dr. Riddell is a specialist in the field of infectious disease.

21. Dr. Riddell issued orders to re-test Kathleen Marie Jabkiewicz for Lyme disease and forwarded her blood samples to both the University of Michigan and to the Mayo Clinic. The results from both laboratories were negative for Lyme disease.

22. Dr. Riddell determined that Kathleen Marie Jabkiewicz did not have Lyme disease; and on or about August 28, 2003, Dr. Riddell removed the PICC line and discontinued her from further antibiotic therapy.

23. On or about December 18, 2003, Kathleen Marie Jabkiewicz was again seen by Dr. Jemsek and was advised to continue further antibiotic treatment for Lyme disease at the Jemsek Clinic despite Dr. Jemsek's knowledge of Dr. Riddell's findings.

24. At no time after the December 18, 2003 consultation, did the Defendants ever re-test Kathleen Marie Jabkiewicz for Lyme disease.

25. Following Kathleen Marie Jabkiewicz's resumption of antibiotic therapy, her psychogenic seizures began to occur with both greater duration and frequency. In response, Dr. Jemsek again inserted a PICC line into Kathleen Marie Jabkiewicz's arm and again placed her on a regime of infusion antibiotic therapy and prescribed additional medications primarily intended for the treatment of epileptic seizures.

26. On or about February 11, 2004, Kathleen Marie Jabkiewicz presented herself to NorthEast Medical Center for treatment of her psychogenic seizures. At that time, she was seen by E. Rolland Phillips, M.D. ("Dr. Phillips") and Robert D. Mitchell, M.D. ("Dr. Mitchell").

27. On or about February 14, 2004, Dr. Mitchell, a board certified neurologist, reported that Kathleen Marie Jabkiewicz was experiencing non-epileptic pseudoseizures and thereafter discharged Kathleen Marie Jabkiewicz in stable condition.

28. On or about February 25, 2004, Kathleen Marie Jabkiewicz was again treated at NorthEast Medical Center by Kenneth J. Welch, M.D. ("Dr. Welch"). Dr. Welch concurred with Dr. Mitchell's diagnosis.

29. On or about February 28, 2004, Kathleen Marie Jabkiewicz was examined by Dr. Jemsek at the Jemsek Clinic for psychogenic seizures and was thereafter taken from the Jemsek Clinic by ambulance to Lake Norman Regional Medical Center, where Dr. Jemsek had her admitted to the intensive care unit. During all relevant times described herein, Kathleen Marie Jabkiewicz's primary treating physician remained Dr. Jemsek.

30. At no time during the course of Dr. Jemsek's medical treatment of Kathleen Marie Jabkiewicz did he refer her to a neurologist for additional evaluation.

31. At no time during the course of Dr. Jemsek's medical treatment of Kathleen Marie Jabkiewicz did he refer her to a psychiatrist for additional evaluation.

32. On or about March 5, 2004, Kathleen Marie Jabkiewicz was released from the intensive care unit and sent home by order of Dr. Jemsek with further instructions to receive additional treatment on that day at the Jemsek Clinic.

33. During the ensuing appointment, Kathleen Marie Jabkiewicz received a Remicade infusion and was prescribed additional medications intended for the treatment and control of epileptic seizures. Additionally, Kathleen Marie Jabkiewicz received a prescription written by Nurse Roeske for sixty (60) thirty (30) milligram morphine sulfate tablets with dosage instructions of one (1) to two (2) tablets every four (4) to six (6) hours as needed for pain.

34. No record other than the actual prescription exists indicating the medically intended purpose of the morphine sulfate prescription or the basis for the amount of the dosage.

35. After consuming the first dosage of two (2) thirty (30) milligram morphine sulfate tablets, Kathleen Marie Jabkiewicz died of morphine poisoning on the night of March 6, 2004 or the morning of March 7, 2004.

36. During the above-referenced period of medical care, the Jemsek Clinic and their duly authorized and acting agents and employees, Dr. Jemsek and Nurse Roeske, were negligent in their care of, or failure to provide care for, Kathleen Marie Jabkiewicz, in that they:

- (a) Failed to provide medical, nursing, and health care services to Kathleen Marie Jabkiewicz in accordance with the standards of practice among members of the same health care profession with similar training and experience situated in the same or similar communities at the time Kathleen Marie Jabkiewicz was under their care;
- (b) Failed timely and properly to diagnose Kathleen Marie Jabkiewicz's medical condition;
- (c) Failed timely and properly to record and communicate medically significant information regarding Kathleen Marie Jabkiewicz's conditions, test results, and treatment;

- (d) Failed to establish, implement, or follow procedures to assure timely and proper communication regarding Kathleen Marie Jabkiewicz's conditions, test results, and treatment;
- (e) Failed timely and properly to treat Kathleen Marie Jabkiewicz's medical conditions;
- (f) Failed to exercise reasonable care and diligence in the application of his, her, or their knowledge and skill to the care of Kathleen Marie Jabkiewicz; and
- (g) Failed to use his, her, or their best judgment in the treatment and care of Kathleen Marie Jabkiewicz.

37. Nurse Roeske, and through her the Jemsek Clinic, negligently failed to provide services as a registered nurse practitioner in accordance with the standards of practice among members of the same health care profession with similar training and experience situated in the same or similar communities at the time Kathleen Marie Jabkiewicz was under her care, in that Nurse Roeske:

- (a) Failed to provide proper nursing or medical treatment;
- (b) Failed to follow standard drug and medication protocols;
- (c) Failed to conduct examinations in accordance with the applicable standard of care;
- (d) Failed to take note or chart findings or histories in accordance with the applicable standards of care;
- (e) Failed to exercise reasonable and prudent care by prescribing a lethal dosage of morphine sulfate to Kathleen Marie Jabkiewicz;
- (f) Failed to note or otherwise document any explanation as to the medical purpose and dosage of the morphine sulfate prescription; and
- (g) Otherwise failed to provide care in accordance with the applicable standard of care.

38. Dr. Jemsek, and through him the Jemsek Clinic, negligently failed to provide services as an infectious disease specialist in accordance with the standards of practice among members of the same health care profession with similar training and experience situated in the same or similar communities at the time Kathleen Marie Jabkiewicz was under his care, in that Dr. Jemsek:

- (a) Misdiagnosed Kathleen Marie Jabkiewicz with Lyme disease;

- (b) Failed timely to diagnose Kathleen Marie Jabkiewicz's psychogenic seizures;
- (c) Failed to initiate proper medical treatment;
- (d) Failed to follow standard drug and medication protocols;
- (e) Failed timely to refer or associate a neurologist and psychiatrist to assist in Kathleen Marie Jabkiewicz's diagnosis and care;
- (f) Failed to conduct examinations in accordance with the applicable standard of care;
- (g) Failed to take note or chart findings or histories in accordance with the applicable standards of care;
- (h) Failed to exercise reasonable and prudent care by prescribing a lethal dosage of morphine sulfate to Kathleen Marie Jabkiewicz;
- (i) Failed to note or otherwise document any explanation as to the medical purpose and dosage of the morphine sulfate prescription;
- (j) Failed to provide supervision and oversight to medical staff and assistants; and
- (k) Otherwise failed to provide care in accordance with the applicable standard of care.

39. As a direct and proximate result of the aforesaid joint and concurrent negligence of the Defendants, and their employees and agents, Kathleen Marie Jabkiewicz died of morphine poisoning.

40. The aforesaid negligence of the Defendants joined and concurred as a proximate cause of Kathleen Marie Jabkiewicz's damages and eventual death.

41. As a direct and proximate result of the aforesaid joint and concurrent negligence of the Defendants, Kathleen Marie Jabkiewicz sustained personal injuries, suffered great and excruciating pain and mental anguish, and incurred significant medical bills for which the Plaintiff Joseph Jabkiewicz, as administrator, is entitled to recover from the Defendants, jointly and severally, damages in excess of \$10,000.00.

42. As a direct and proximate result of the aforesaid Defendants' negligence and Kathleen Marie Jabkiewicz's wrongful death, Plaintiff Joseph Jabkiewicz incurred funeral and burial expenses, and the Plaintiffs have lost her reasonably expected net income, her services, her protection, her care, her assistance, her society, her companionship, her comfort, her guidance, her kindly offices, her advice, and other losses as provided for in G.S. 28A-18-2(b).

43. Pursuant to Rule 9(j) of the North Carolina Rules of Civil Procedure, the medical, nursing, and health care provided by the Defendants as herein alleged has been reviewed by persons who are reasonably expected to qualify as expert witnesses under Rule 702 of the North Carolina Rules of Evidence and who are willing to testify that the medical, nursing, and health care provided to Kathleen Marie Jabkiewicz did not comply with the applicable standards of care.

44. The Plaintiff Joseph Jabkiewicz, as administrator of the Estate of Kathleen Marie Jabkiewicz, is entitled to recover from the Defendants, jointly and severally, a sum in excess of \$10,000.00 for the wrongful death of Kathleen Marie Jabkiewicz.

SECOND CAUSE OF ACTION

(Negligent Infliction of Emotional Harm to Michael Steven Jabkiewicz)

45. The forgoing paragraphs 1 through 44, inclusive, are hereby repleaded and realleged as if more fully set forth herein.

46. As a direct and proximate result of their negligent conduct, the Defendants could reasonably foresee that Minor Plaintiff Michael Steven Jabkiewicz, as a minor son of Kathleen Marie Jabkiewicz, would suffer severe psychological injury and require care by a mental health professional.

47. As a direct and proximate result of the aforesaid joint and concurrent negligence of the Defendants, Minor Plaintiff Michael Steven Jabkiewicz sustained personal injuries and emotional harm, has and will continue to require psychiatric care, therapy, medical care and attention, and is entitled to recover from the Defendants, joint and severally, damages in excess of \$10,000.00.

48. As a direct and proximate result of the joint and concurrent negligence of the Defendants, Plaintiff Joseph Jabkiewicz has become obligated to pay for the past and ongoing medical care, therapy, and psychiatric treatment for his minor child Michael Steven Jabkiewicz and is entitled to recover from the Defendants, jointly and severally, compensatory damages to be determined.

THIRD CAUSE OF ACTION

(Negligent Infliction of Emotional Harm to Matthew Joseph Jabkiewicz)

49. The forgoing paragraphs 1 through 44, inclusive, are hereby repleaded and realleged as if more fully set forth herein.

50. As a direct and proximate result of their negligent conduct, the Defendants could reasonably foresee that Minor Plaintiff Matthew Joseph Jabkiewicz, as a son of Kathleen Marie Jabkiewicz, would suffer severe psychological injury and require care by a mental health professional.

51. As a direct and proximate result of the aforesaid joint and concurrent negligence of the Defendants, Minor Plaintiff Matthew Joseph Jabkiewicz sustained personal injuries and emotional harm, has and will continue to require psychiatric care, therapy, medical care and attention, and is entitled to recover from the Defendants, joint and severally, damages in excess of \$10,000.00.

52. As a direct and proximate result of the joint and concurrent negligence of the Defendants, Plaintiff Joseph Jabkiewicz has become obligated to pay for the past and ongoing medical care, therapy, and psychiatric treatment for his minor child Matthew Joseph Jabkiewicz and is entitled to recover from the Defendants, jointly and severally, compensatory damages to be determined.

FOURTH CAUSE OF ACTION

(Negligent Infliction of Emotional Harm to Joseph Jabkiewicz)

53. The forgoing paragraphs 1 through 44, inclusive, are hereby repleaded and realleged as if more fully set forth herein.

54. As a direct and proximate result of the aforesaid negligence, the Defendants could reasonably foresee that Plaintiff Joseph Jabkiewicz, as the spouse of Kathleen Marie Jabkiewicz, would suffer severe psychological injury and require care by a mental health professional.

55. As a direct and proximate result of the aforesaid joint and concurrent negligence of the Defendants, Plaintiff Joseph Jabkiewicz sustained personal injuries and emotional harm, has and will continue to require psychiatric care, therapy, medical care, and attention, has lost wages, and is entitled to recover from the Defendants, joint and severally, damages in excess of \$10,000.00.

WHEREFORE, the Plaintiffs pray that:

1. Plaintiff Joseph Jabkiewicz, as Administrator of the Estate of Kathleen Marie Jabkiewicz, have and recover judgment against the Defendants, jointly and severally, in a sum in excess of \$10,000.00 for the personal injuries to and wrongful death of Kathleen Marie Jabkiewicz;

2. Plaintiff Joseph Jabkiewicz, individually, have and recover judgment against the Defendants, jointly and severally, in a sum in excess of \$10,000.00 for personal injuries and the recovery of medical expenses;

3. Minor Plaintiff Matthew Joseph Jabkiewicz, by and through his Guardian Ad Litem, have and recover judgment against the Defendants, jointly and severally, in a sum in excess \$10,000.00 for personal injuries;

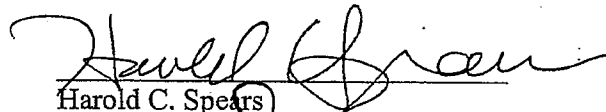

4. Minor Plaintiff Michael Steven Jabkiewicz, by and through his Guardian Ad Litem, have and recover judgment against the Defendants, jointly and severally, in a sum in excess of \$10,000.00 for personal injuries;

5. All issues be tried by jury;
6. The Plaintiffs have and recover their costs and interest; and
7. The Plaintiffs have and recover such other and further relief as the Court deems just and proper.

This the 20th day of June, 2005.

OF COUNSEL:

CAUDLE & SPEARS, P.A.
121 West Trade Street
2600 Interstate Tower
Charlotte NC 28202
Telephone: 704-377-1200
Facsimile: 704-338-5858


Harold C. Spears

Eric Allen Rogers
Attorneys for Plaintiffs

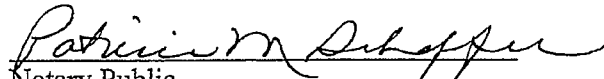
STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

Joseph Stanly Jabkiewicz, being first duly sworn, deposes and says that he is the Administrator of the Estate of Kathleen Marie Jabkiewicz; that as such he is duly authorized to make this verification; that he has read the foregoing Complaint and knows the contents thereof; that the same is true of his own knowledge, except as to those matters and things therein stated upon information and belief, and as to those matters and things, he believes the same to be true.


Joseph Stanly Jabkiewicz

Sworn to and subscribed before me
this 17 day of February, 2005.


Notary Public

My Commission Expires: 1-11-2010

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2005 SEP 20 PM 3:36
05-CVS-11118
MECKLENBURG COUNTY, C.S.C.

JOSEPH STANLY JABKIEWICZ,
Administrator of the ESTATE OF
KATHLEEN MARIE JABKIEWICZ, and
JOSEPH STANLY JABKIEWICZ,
Individually, and as Guardian Ad Litem for
Minors MATTHEW JOSEPH
JABKIEWICZ and MICHAEL STEVEN
JABKIEWICZ,

Plaintiffs,

vs.

JOSEPH G. JEMSEK, M.D.,
CHRISTIE ROESKE, R.N.P., and
THE JEMSEK CLINIC, P.A.,

Defendants.

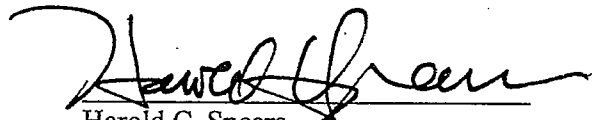
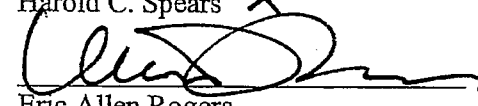
STATEMENT OF MONETARY
RELIEF SOUGHT

NOW COME the Plaintiffs, through counsel, pursuant to Rule 8(a)(2) of the North Carolina Rules of Civil Procedure, and hereby state that the amount of monetary relief sought by them for their claims as set forth in the Complaint filed in this case is fifteen million dollars (\$15,000,000.00), together with any exemplary damages as may be awarded by the court upon the trial of this action.

This the 20th day of September, 2005.

OF COUNSEL:

CAUDLE & SPEARS, P.A.
121 West Trade Street
2600 Interstate Tower
Charlotte NC 28202
Telephone: 704-377-1200
Facsimile: 704-338-5858


Harold C. Spears

Eric Allen Rogers
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that the pleading or paper to which this certificate is attached was served upon each party to this action by the deposit of a copy thereof enclosed in a postpaid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service for mailing to the attorney of record for each party at his last known address.

This the 20 day of September, 2005:



Eric Allen Rogers
Attorney for Plaintiffs