

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

MICHAEL APPLEBAUM, Special Administrator of)
the Estate of JOSEPH APPLEBAUM, deceased,)

Plaintiff,)

V.)

No. 2005L062044

RUSH NORTH SHORE MEDICAL CENTER,)

RUSH UNIVERSITY MEDICAL CENTER)

RUSH MEDICAL COLLEGE,)

DR. IBRAHIM, #074/MOD,)

EMEKA EZE, MD,)

JOSE VELASCO, MD,)

JOHN DOE DOCTOR #338,)

LAWRENCE LAYFER, MD,)

UNIVERSITY RHEUMATOLOGISTS,)

ALAN REICH, MD,)

NORTH SHORE RADIOLOGY,)

RUSH NORTH SHORE MEDICAL CENTER)

DEPARTMENT OF RADIOLOGY,)

NORTH SHORE MRI/CT CENTRE)

LEONARD BERLIN, MD,)

MICHAEL RACENSTEIN, MD,)

GARY NOVETSKY, MD,)

M. EDELMAN, MD,)

AVRUM EPSTEIN, MD,)

M. SMITH, MD,)

J. ALEXANDER, MD,)

C. FISHER, MD,)

CHEST MEDICINE CONSULTANTS,)

VADIM LEYENSON, MD)

Defendants.)

FIRST AMENDED COMPLAINT AT LAW

Count I - Wrongful Death

Plaintiff, MICHAEL APPLEBAUM, Special Administrator of the Estate of JOSEPH

APPLEBAUM, deceased, complaining of the defendants, RUSH NORTH SHORE MEDICAL

CENTER, ALAN REICH, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, VADIM LEYENSON, MD, CHEST MEDICINE CONSULTANTS, NORTH SHORE RADIOLOGY, NORTH SHORE MRI/CT CENTRE, RUSH MEDICAL COLLEGE, UNIVERSITY RHEUMATOLOGISTS, RUSH NORTH SHORE MEDICAL CENTER DEPARTMENT OF RADIOLOGY, RUSH UNIVERSITY MEDICAL CENTER and against each of them, says:

- 1) On and before December 02, 2003, the defendant, RUSH NORTH SHORE MEDICAL CENTER, was a corporation organized and existing pursuant to the laws of the State of Illinois and it employed physicians, nurses, technicians and other healthcare professionals comprising a single organized medical staff within its hospital facility located in Skokie, Cook County, Illinois.
- 2) On and before December 02, 2003, the defendant, LAWRENCE LAYFER, MD, was a physician licensed to practice medicine within the State of Illinois who held himself out to members of the public including to the plaintiff's decedent, JOSEPH APPLEBAUM, as having specialized training and experience in the medical specialty of internal medicine.
- 3) On and before December 02, 2003, the defendant, VADIM LEYENSON, MD, was a physician licensed to practice medicine within the State of Illinois who held himself out to members of the public including to the plaintiff's decedent, JOSEPH APPLEBAUM, as having specialized training and experience in the medical specialty of internal medicine.

- 4) On and before December 02, 2003, the defendant, ALAN REICH, MD, was a physician licensed to practice medicine within the State of Illinois who held himself out to members of the public including to the plaintiff's decedent, JOSEPH APPLEBAUM, as having specialized training and experience in the medical specialty of internal medicine.
- 5) On and before December 02, 2003, the defendant, DR. IBRAHIM, #074/MOD was a physician licensed to practice medicine within the State of Illinois who held himself out to members of the public including to the plaintiff's decedent, JOSEPH APPLEBAUM, as having specialized training and experience in the medical specialty of internal medicine.
- 6) On and before December 02, 2003, the defendant, EMEKA EZE, MD, was a physician licensed to practice medicine within the State of Illinois who held himself out to members of the public including to the plaintiff's decedent, JOSEPH APPLEBAUM, as having specialized training and experience in the medical specialties of internal medicine and intensive care medicine.
- 7) On and before December 02, 2003, the defendant, JOSE VELASCO, MD, was a physician licensed to practice medicine within the State of Illinois who held himself out to members of the public including to the plaintiff's decedent, JOSEPH APPLEBAUM, as having specialized training and experience in general surgery.
- 8) On and before December 02, 2003, the defendant, JOHN DOE DOCTOR #338, was a physician licensed to practice medicine within the State of Illinois who held himself out to members of the public including to the plaintiff's decedent, JOSEPH APPLEBAUM, as having specialized training and experience in general surgery.
- 9) On and before December 02, 2003, the defendant, LEONARD BERLIN, MD, was a

physician licensed to practice medicine within the State of Illinois who held himself out to members of the public including to the plaintiff's decedent, JOSEPH APPLEBAUM, as having specialized training and experience in radiology.

10) On and before December 02, 2003, the defendant, MICHAEL RACENSTEIN, MD, was a physician licensed to practice medicine within the State of Illinois who held himself out to members of the public including to the plaintiff's decedent, JOSEPH APPLEBAUM, as having specialized training and experience in radiology.

11) On and before December 02, 2003, the defendant, GARY NOVETSKY, MD, was a physician licensed to practice medicine within the State of Illinois who held himself out to members of the public including to the plaintiff's decedent, JOSEPH APPLEBAUM, as having specialized training and experience in radiology.

12) On and before December 02, 2003, the defendant, M. EDELMAN, MD, was a physician licensed to practice medicine within the State of Illinois who held him-/her-self out to members of the public including to the plaintiff's decedent, JOSEPH APPLEBAUM, as having specialized training and experience in radiology.

13) On and before December 02, 2003, the defendant, AVRUM EPSTEIN, MD, was a physician licensed to practice medicine within the State of Illinois who held himself out to members of the public including to the plaintiff's decedent, JOSEPH APPLEBAUM, as having specialized training and experience in radiology.

14) On and before December 02, 2003, the defendant, M. SMITH, MD, was a physician licensed to practice medicine within the State of Illinois who held him-/her-self out to members of the public including to the plaintiff's decedent, JOSEPH APPLEBAUM, as having specialized training and experience in radiology.

- 15) On and before December 02, 2003, the defendant, J. ALEXANDER, MD, was a physician licensed to practice medicine within the State of Illinois who held him-/her-self out to members of the public including to the plaintiff's decedent, JOSEPH APPLEBAUM, as having specialized training and experience in radiology.
- 16) On and before December 02, 2003, the defendant, C. FISHER, MD, was a physician licensed to practice medicine within the State of Illinois who held him-/her-self out to members of the public including to the plaintiff's decedent, JOSEPH APPLEBAUM, as having specialized training and experience in radiology.
- 17) On information and belief, on and before December 02, 2003, the defendant, CHEST MEDICINE CONSULTANTS, S.C., was a corporation organized and existing pursuant to the laws of the State of Illinois which at all times herein relevant and in connection with medical care and treatment rendered the plaintiff, JOSEPH APPLEBAUM, employed the defendant, VADIM LEYENSON, MD, as its actual agent and employee.
- 18) On information and belief, on and before December 02, 2003, the defendant, UNIVERSITY RHEUMATOLOGISTS, was a corporation organized and existing pursuant to the laws of the State of Illinois which at all times herein relevant and in connection with medical care and treatment rendered the plaintiff, JOSEPH APPLEBAUM, employed the defendant, LAWRENCE LAYFER, MD, as its actual agent and employee.
- 19) On information and belief, on and before December 02, 2003, the defendant, RUSH MEDICAL COLLEGE, was a corporation organized and existing pursuant to the laws of the State of Illinois which at all times herein relevant and in connection with medical care and treatment rendered the plaintiff, JOSEPH APPLEBAUM, employed the defendants,

DR. IBRAHIM, #074/MOD EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, and JOHN DOE DOCTOR #338, as its actual agents and employees.

20) On information and belief, on and before December 01, 2003, the defendant, RUSH NORTH SHORE MEDICAL CENTER, was a corporation organized and existing pursuant to the laws of the State of Illinois which at all times herein relevant and in connection with medical care and treatment rendered the plaintiff, JOSEPH APPLEBAUM, employed the defendants, DR. IBRAHIM, #074/MOD EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD, and JOHN DOE DOCTOR #338, as its actual agents and employees.

21) On information and belief, on and before December 01, 2003, the defendant, RUSH UNIVERSITY MEDICAL CENTER, was a corporation organized and existing pursuant to the laws of the State of Illinois which at all times herein relevant and in connection with medical care and treatment rendered the plaintiff, JOSEPH APPLEBAUM, employed the defendants, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, and JOHN DOE DOCTOR #338, as its actual agents and employees.

22) On information and belief, on and before December 02, 2003, the defendant, NORTH SHORE RADIOLOGY, was a corporation organized and existing pursuant to the laws of the State of Illinois which at all times herein relevant and in connection with medical care and treatment rendered the plaintiff, JOSEPH APPLEBAUM, employed the defendants, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD,

M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD, as its actual agents and employees.

23) On information and belief, on and before December 02, 2003, the defendant, RUSH NORTH SHORE MEDICAL CENTER DEPARTMENT OF RADIOLOGY, was a corporation organized and existing pursuant to the laws of the State of Illinois which at all times herein relevant and in connection with medical care and treatment rendered the plaintiff, JOSEPH APPLEBAUM, employed the defendants, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD, as its actual agents and employees.

24) On information and belief, on and before December 02, 2003, the defendant, NORTH SHORE MRI/CT CENTRE, was a corporation organized and existing pursuant to the laws of the State of Illinois which at all times herein relevant and in connection with medical care and treatment rendered the plaintiff, JOSEPH APPLEBAUM, employed the defendants, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD, as its actual agents and employees.

25) On and before December 02, 2003, and in connection with medical care and treatment rendered the plaintiff's decedent, JOSEPH APPLEBAUM, the defendants, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, ALAN REICH, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD, VADIM

LEYENSON, MD, and JOHN DOE DOCTOR #338, acted as the apparent agents of the defendant, RUSH NORTH SHORE MEDICAL CENTER.

26) On December 01, 2003, the plaintiff's decedent, JOSEPH APPLEBAUM, was admitted by the defendant, LAWRENCE LAYFER, MD, into the medical facility of the defendant, RUSH NORTH SHORE MEDICAL CENTER, for the evaluation and treatment of certain medical complaints and ailments and an elective procedure.

27) On and before December 02, 2003, the plaintiff's decedent, JOSEPH APPLEBAUM, came under the care and treatment of certain physicians, nurses, technicians, other healthcare professionals, agents and employees, including but not limited to the defendants, ALAN REICH, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, and VADIM LEYENSON, MD, for the treatment of his medical complaints and ailments and an elective procedure.

28) On December 01, 2003, the plaintiff's decedent, JOSEPH APPLEBAUM, began to exhibit signs and symptoms consistent with an acute abdomen.

29) On and after December 01, 2003, the defendant, RUSH NORTH SHORE MEDICAL CENTER, by and through its authorized physicians, nurses, technicians and other healthcare professionals, agents and employees including but not limited to the defendants, ALAN REICH, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD,

EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, AND VADIM LEYENSON, and the defendant, CHEST MEDICINE CONSULTANTS, by and through its authorized physician, agent and employee, defendant, VADIM LEYENSON, MD, and the defendant, UNIVERSITY RHEUMATOLOGISTS by and through its authorized physician, agent and employee, defendant, LAWRENCE LAYFER, MD, and the defendant, NORTH SHORE RADIOLOGY, by and through its authorized physicians, agents and employees, defendants LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD and the defendant, RUSH NORTH SHORE MEDICAL CENTER DEPARTMENT OF RADIOLOGY, by and through its authorized physicians, agents and employees, defendants LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD, and the defendant, NORTH SHORE MRI/CT CENTRE, by and through its authorized physicians, agents and employees, defendants LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD and the defendant, RUSH UNIVERSITY MEDICAL CENTER, by and through its authorized physicians, agents and employees, defendants, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, and JOHN DOE DOCTOR #338, and the defendant, RUSH MEDICAL COLLEGE, by and through its authorized physicians, agents and employees, defendants, DR. IBRAHIM, #074/MOD,

EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, and JOHN DOE DOCTOR #338, and the defendants, ALAN REICH, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, AND VADIM LEYENSON, MD,

individually, were negligent in one or more of the following respects:

- a. Failed to adequately and timely evaluate plaintiff's decedent, JOSEPH APPLEBAUM;
- b. Failed to adequately and timely communicate and evaluate plaintiff's decedent, JOSEPH APPLEBAUM's test result;
- c. Failed to recognize and appreciate that the plaintiff's decedent, JOSEPH APPLEBAUM, was exhibiting signs and symptoms of an acute abdomen;
- d. Failed to adequately and timely diagnose plaintiff's decedent, JOSEPH APPLEBAUM's acute abdomen;
- e. Failed to transport the plaintiff's decedent, JOSEPH APPLEBAUM for evaluation of his signs and symptoms in a timely fashion;
- f. Failed to adequately and timely manage plaintiff's decedent, JOSEPH APPLEBAUM's acute abdomen;
- g. Failed to adequately and timely treat plaintiff's decedent, JOSEPH APPLEBAUM's acute abdomen;
- h. Delayed surgical intervention for approximately thirty hours in a patient with an acute surgical abdomen.

30) As a proximate result of one or more of the aforesaid negligent acts and/or omissions by the defendant, RUSH NORTH SHORE MEDICAL CENTER, by and through its authorized physicians, nurses, technicians and other healthcare professionals, agents and employees including but not limited to the defendants, ALAN REICH, MD, LEONARD

BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, AND VADIM LEYENSON, and the defendant, CHEST MEDICINE CONSULTANTS, S.C., by and through its authorized physician, agent and employee, defendant, VADIM LEYENSON, MD, and the defendant, UNIVERSITY RHEUMATOLOGISTS by and through its authorized physician, agent and employee, defendant, LAWRENCE LAYFER, MD, and the defendant, NORTH SHORE RADIOLOGY, by and through its authorized physicians, agents and employees, defendants LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD and the defendant, RUSH NORTH SHORE MEDICAL CENTER DEPARTMENT OF RADIOLOGY, by and through its authorized physicians, agents and employees, defendants LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD, and the defendant, NORTH SHORE MRI/CT CENTRE, by and through its authorized physicians, agents and employees, defendants LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD, the defendant, RUSH UNIVERSITY MEDICAL CENTER, by and through its authorized physicians, agents and employees, defendants, DR. IBRAHIM, #074/MOD EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD,

and JOHN DOE DOCTOR #338, and the defendant, RUSH MEDICAL COLLEGE, by and through its authorized physicians, agents and employees, defendants, DR.

IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, and JOHN DOE DOCTOR #338, and the defendants, ALAN REICH, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, AND VADIM LEYENSON, MD, individually, the plaintiff's decedent, JOSEPH APPLEBAUM, died on December 02, 2003.

31) On December 02, 2003, the plaintiff's decedent, JOSEPH APPLEBAUM, left surviving his son, MICHAEL APPLEBAUM, who suffered pecuniary loss and a loss of JOSEPH APPLEBAUM's society and companionship as a proximate result of his death.

32) This action is brought by MICHAEL APPLEBAUM in his capacity as Court-appointed Special Administrator of the Estate of JOSEPH APPLEBAUM, deceased, and pursuant to provisions of the Illinois Wrongful Death Act statute.

33) Attached hereto and made a part hereof is an Affidavit and Medical Report submitted pursuant to Section 2-622 (1) of the Illinois Code of Civil Procedure.

WHEREFORE, the plaintiff, MICHAEL APPLEBAUM, Special Administrator of the Estate of JOSEPH APPLEBAUM, deceased, demands judgment against the defendants, RUSH NORTH SHORE MEDICAL CENTER, ALAN REICH, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM

EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, VADIM LEYENSON, MD, CHEST MEDICINE CONSULTANTS, NORTH SHORE RADIOLOGY, RUSH MEDICAL COLLEGE, UNIVERSITY RHEUMATOLOGISTS, RUSH NORTH SHORE MEDICAL CENTER DEPARTMENT OF RADIOLOGY, NORTH SHORE MRI/CT CENTRE, RUSH UNIVERSITY MEDICAL CENTER, and against each of them in a sum in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).

Count II - Survival Action

Plaintiff, MICHAEL APPLEBAUM, Special Administrator of the Estate of JOSEPH APPLEBAUM, deceased, complaining of the defendants, RUSH NORTH SHORE MEDICAL CENTER, ALAN REICH, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, VADIM LEYENSON, MD, CHEST MEDICINE CONSULTANTS, NORTH SHORE RADIOLOGY, RUSH MEDICAL COLLEGE, UNIVERSITY RHEUMATOLOGISTS, RUSH NORTH SHORE MEDICAL CENTER DEPARTMENT OF RADIOLOGY, NORTH SHORE MRI/CT CENTRE, RUSH UNIVERSITY MEDICAL CENTER and against each of them, says:

1-30) Plaintiff repeats and realleges paragraphs 1 through 29 of Count I of this complaint at law as if fully set forth herein.

31) As a proximate result of one or more of the aforesaid negligent acts and/or omissions of the defendants, RUSH NORTH SHORE MEDICAL CENTER, ALAN REICH, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, VADIM LEYENSON, MD, CHEST MEDICINE CONSULTANTS, NORTH SHORE RADIOLOGY, RUSH MEDICAL COLLEGE, UNIVERSITY RHEUMATOLOGISTS, RUSH NORTH SHORE MEDICAL CENTER DEPARTMENT OF RADIOLOGY, NORTH SHORE MRI/CT CENTRE, RUSH UNIVERSITY MEDICAL CENTER, the plaintiff's decedent, JOSEPH APPLEBAUM, deceased, suffered conscious pain and suffering and, had he survived he would have had a cause of action for such conscious pain and suffering, and such cause of action has thus survived his death.

WHEREFORE, the plaintiff, MICHAEL APPLEBAUM, Special Administrator of the Estate of JOSEPH APPLEBAUM, deceased, demands judgment against the defendants, RUSH NORTH SHORE MEDICAL CENTER, ALAN REICH, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, VADIM LEYENSON, MD, CHEST MEDICINE CONSULTANTS, NORTH SHORE RADIOLOGY, RUSH MEDICAL COLLEGE, UNIVERSITY RHEUMATOLOGISTS, RUSH NORTH SHORE MEDICAL CENTER DEPARTMENT OF

RADIOLOGY, NORTH SHORE MRI/CT CENTRE, RUSH UNIVERSITY MEDICAL CENTER, and against each of them in a sum in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).

Count III - Willful and Wanton Misconduct

Plaintiff, MICHAEL APPLEBAUM, Special Administrator of the Estate of JOSEPH APPLEBAUM, deceased, complaining of the defendants, RUSH NORTH SHORE MEDICAL CENTER, ALAN REICH, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, VADIM LEYENSON, MD, CHEST MEDICINE CONSULTANTS, RUSH MEDICAL COLLEGE, UNIVERSITY RHEUMATOLOGISTS, RUSH UNIVERSITY MEDICAL CENTER and against each of them, says:

1-29) Plaintiff repeats and realleges paragraphs 1 through 28 of Count I of this complaint at law as if fully set forth herein.

30) The son of Plaintiff's Decedent, Joseph Applebaum, is a medical doctor licensed by the State of Illinois (hereinafter "Dr. Applebaum" or "Plaintiff's Decedent's Family").

31) Dr. Applebaum was not on staff at, had no privileges at and was not otherwise professionally related to or affiliated with defendant RUSH NORTH SHORE MEDICAL CENTER.

32) Plaintiff's decedent's family was not involved with or asked to be involved with the diagnosis, management or treatment of plaintiff's decedent by any defendant in this case or asked to provide information or advice concerning the diagnosis, management or

treatment of plaintiff's decedent by any defendant in this case.

33) Plaintiff's decedent's son, was in his father's attendance almost continuously from the time of his admission at defendant RUSH NORTH SHORE MEDICAL CENTER on December 01, 2003 until the time of his death at defendant RUSH NORTH SHORE MEDICAL CENTER on December 02, 2003.

34) At various times during the course of plaintiff's decedent's hospitalization, the plaintiff's decedent's family volunteered unsolicited information about plaintiff's decedent's condition, either directly or indirectly, to the defendants. Based on information and belief, defendants were informed by plaintiff's decedent's family of facts which created a high degree of risk of physical harm to plaintiff's decedent.

35) On and after December 01, 2003, the defendant, RUSH NORTH SHORE MEDICAL CENTER, by and through its authorized physicians, nurses, technicians and other healthcare professionals, agents and employees including but not limited to the defendants, ALAN REICH, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, AND VADIM LEYENSON, and the defendant, CHEST MEDICINE CONSULTANTS, S.C., by and through its authorized physician, agent and employee, defendant, VADIM LEYENSON, MD, and the defendant, UNIVERSITY RHEUMATOLOGISTS by and through its authorized physician, agent and employee, defendant, LAWRENCE LAYFER, MD, and the defendant, RUSH UNIVERSITY MEDICAL CENTER, by and through its authorized physicians, agents and employees, defendants, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, and JOHN DOE DOCTOR #338, and the defendant, RUSH MEDICAL COLLEGE, by

and through its authorized physicians, agents and employees, defendants, DR.

IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, and JOHN DOE DOCTOR #338, and the defendants, ALAN REICH, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, AND VADIM LEYENSON, MD, individually, engaged in one or more of the following acts of willful and wanton conduct:

- a. The defendants were under no obligation to accept, rely on or act upon the unsolicited, volunteered information provided by plaintiff's decedent's family, who was not professionally affiliated with any defendant or asked to be involved with the diagnosis, management or treatment of plaintiff's decedent by any defendant or asked to provide information or advice concerning the diagnosis, management or treatment of plaintiff's decedent by any defendant.
- b. In fact, defendants deliberately proceeded to act, or failed to act, in conscious disregard of, or indifference to, the unsolicited, volunteered information provided by plaintiff's decedent's family.
- c. Though under no obligation to accept, rely on or act upon the unsolicited, volunteered information provided by plaintiff's decedent's family, who was not professionally affiliated with any defendant or asked to be involved with the diagnosis, management or treatment of plaintiff's decedent by any defendant or asked to provide information or advice concerning the diagnosis, management or treatment of plaintiff's decedent by any defendant, the defendants' deliberate act(s), or failure(s) to act, in conscious disregard of, or indifference to, the unsolicited, volunteered information provided by

plaintiff's decedent's family, was behavior that is willful and wanton.

- d. The defendants' willful and wanton misconduct resulted in physical harm to plaintiff's decedent, and, eventually, plaintiff's decedent's death.

36) As a result of one or more of the aforesaid willful and wanton acts by the defendant, RUSH NORTH SHORE MEDICAL CENTER, by and through its authorized physicians, nurses, technicians and other healthcare professionals, agents and employees including but not limited to the defendants, ALAN REICH, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, AND VADIM LEYENSON, and the defendant, CHEST MEDICINE CONSULTANTS, S.C., by and through its authorized physician, agent and employee, defendant, VADIM LEYENSON, MD, and the defendant, UNIVERSITY RHEUMATOLOGISTS by and through its authorized physician, agent and employee, defendant, LAWRENCE LAYFER, MD, and the defendant, RUSH UNIVERSITY MEDICAL CENTER, by and through its authorized physicians, agents and employees, defendants, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, and JOHN DOE DOCTOR #338, and the defendant, RUSH MEDICAL COLLEGE, by and through its authorized physicians, agents and employees, defendants, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, and JOHN DOE DOCTOR #338, and the defendants, ALAN REICH, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, AND VADIM LEYENSON, MD, individually, the plaintiff's decedent, JOSEPH APPLEBAUM, suffered physical harm and died on December 02, 2003.

WHEREFORE, the plaintiff, MICHAEL APPLEBAUM, Special Administrator of the Estate of JOSEPH APPLEBAUM, deceased, demands judgment against the defendants, RUSH NORTH SHORE MEDICAL CENTER, ALAN REICH, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, VADIM LEYENSON, MD, CHEST MEDICINE CONSULTANTS, RUSH MEDICAL COLLEGE, UNIVERSITY RHEUMATOLOGISTS, RUSH UNIVERSITY MEDICAL CENTER, and against each of them in a sum in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).

Count IV - Intentional Infliction of Emotional Distress

Plaintiff, MICHAEL APPLEBAUM, Special Administrator of the Estate of JOSEPH APPLEBAUM, deceased, complaining of the defendants, RUSH NORTH SHORE MEDICAL CENTER, ALAN REICH, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, VADIM LEYENSON, MD, CHEST MEDICINE CONSULTANTS, NORTH SHORE RADIOLOGY, RUSH MEDICAL COLLEGE, UNIVERSITY RHEUMATOLOGISTS, RUSH NORTH SHORE MEDICAL CENTER DEPARTMENT OF RADIOLOGY, NORTH SHORE MRI/CT CENTRE, RUSH UNIVERSITY MEDICAL CENTER and against each of them, says:

1-29) Plaintiff repeats and realleges paragraphs 1 through 28 of Count I of this complaint

at law as if fully set forth herein.

30) On and after December 01, 2003, the defendant, RUSH NORTH SHORE MEDICAL CENTER, by and through its authorized physicians, nurses, technicians and other healthcare professionals, agents and employees including but not limited to the defendants, ALAN REICH, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, AND VADIM LEYENSON, MD and the defendant, CHEST MEDICINE CONSULTANTS, S.C., by and through its authorized physician, agent and employee, defendant, VADIM LEYENSON, MD, and the defendant, UNIVERSITY RHEUMATOLOGISTS by and through its authorized physician, agent and employee, defendant, LAWRENCE LAYFER, MD, and the defendant, NORTH SHORE RADIOLOGY, by and through its authorized physicians, agents and employees, defendants LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD and the defendant, RUSH NORTH SHORE MEDICAL CENTER DEPARTMENT OF RADIOLOGY, by and through its authorized physicians, agents and employees, defendants LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD, and the defendant, NORTH SHORE MRI/CT CENTRE, by and through its authorized physicians, agents and employees, defendants LEONARD BERLIN, MD, MICHAEL

RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD, and the defendant, RUSH UNIVERSITY MEDICAL CENTER, by and through its authorized physicians, agents and employees, defendants, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, and JOHN DOE DOCTOR #338, and the defendant, RUSH MEDICAL COLLEGE, by and through its authorized physicians, agents and employees, defendants, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, and JOHN DOE DOCTOR #338, and the defendants, ALAN REICH, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, AND VADIM LEYENSON, MD, individually, were guilty of one or more of the following acts of intentional infliction of emotional distress:

31) Defendant VADIM LEYENSON, MD was directly informed that plaintiff's decedent was suffering from acute abdominal symptoms, demonstrated acute abdominal findings and when said symptoms and findings began.

32) Defendant VADIM LEYENSON, MD was informed of plaintiff's decedent's concern about plaintiff's decedent's abdominal symptoms and findings.

33) Defendant VADIM LEYENSON, MD was requested by plaintiff's decedent to evaluate plaintiff's decedent's abdomen.

34) Defendant VADIM LEYENSON, MD refused, claiming instead that the on-call staff would examine plaintiff's decedent.

35) Defendant VADIM LEYENSON, MD's refusal to evaluate plaintiff's decedent, who was suffering from acute abdominal symptoms and demonstrated acute abdominal findings, was conduct that is extreme and outrageous.

36) Defendant VADIM LEYENSON, MD either intended that his conduct should inflict severe emotional distress, or knew that there was a high probability that his conduct would cause severe emotional distress.

37) Defendant VADIM LEYENSON, MD's conduct in fact caused plaintiff's decedent severe emotional distress.

38) Defendant VADIM LEYENSON, MD was directly informed that plaintiff's decedent was suffering from acute abdominal symptoms, demonstrated acute abdominal findings and when said symptoms and findings began.

39) Defendant VADIM LEYENSON, MD was informed of plaintiff's decedent's concern about plaintiff's decedent's abdominal symptoms and findings.

40) Defendant VADIM LEYENSON, MD was requested by plaintiff's decedent to evaluate plaintiff's decedent's abdomen.

41) Defendant VADIM LEYENSON, MD refused, claiming instead that the on-call staff would examine plaintiff's decedent.

42) Defendant VADIM LEYENSON, MD's refusal to evaluate plaintiff's decedent, who was suffering from acute abdominal symptoms and demonstrated acute abdominal findings, was conduct that is extreme and outrageous.

43) Defendant VADIM LEYENSON, MD either intended that his conduct should inflict severe emotional distress, or knew that there was a high probability that his conduct would cause severe emotional distress.

44) Defendant VADIM LEYENSON, MD's conduct in fact caused plaintiff's decedent severe emotional distress.

45) Plaintiff is the son of plaintiff's decedent.

46) Plaintiff was present at the time of defendant VADIM LEYENSON, MD's extreme and outrageous conduct.

47) Plaintiff was aware that this conduct caused injury to the plaintiff's decedent.

48) As a result, plaintiff suffered severe emotional distress.

49) The Nursing Staff on the ward of defendant RUSH NORTH SHORE MEDICAL CENTER to which plaintiff's decedent was initially admitted (hereinafter "Nursing Staff") was directly informed that plaintiff's decedent was suffering from acute abdominal symptoms, demonstrated acute abdominal findings and when said symptoms and findings began.

50) The Nursing Staff was directly informed of plaintiff's decedent's concerns that no on-call, attending, admitting or primary care physician had examined, evaluated or otherwise assessed him in person.

51) The Nursing Staff was requested to contact defendant DR. ALAN REICH and notify him of plaintiff's decedent's concerns, acute abdominal symptoms, acute abdominal findings, when said symptoms and findings began and request defendant DR. ALAN REICH to attend to and evaluate plaintiff's decedent in person.

52) The Nursing Staff claimed to have contacted defendant DR. ALAN REICH, informed him of the above and defendant DR. ALAN REICH had refused to evaluate or attend to plaintiff's decedent in person, stating that he would manage plaintiff's decedent from home.

53) Defendant DR. ALAN REICH's refusal to evaluate or attend in person plaintiff's decedent, who was concerned that he had not been examined, evaluated or otherwise assessed by an on-call, attending, admitting or primary care physician, was suffering from acute abdominal symptoms and demonstrated acute abdominal findings was conduct that is extreme and outrageous.

54) Defendant DR. ALAN REICH either intended that his conduct should inflict severe emotional distress, or knew that there was a high probability that his conduct would cause severe emotional distress.

55) Defendant DR. ALAN REICH's conduct in fact caused plaintiff's decedent severe emotional distress.

56) The Nursing Staff on the ward of defendant RUSH NORTH SHORE MEDICAL CENTER to which plaintiff's decedent was initially admitted (hereinafter "Nursing Staff") was directly informed that plaintiff's decedent was suffering from acute abdominal symptoms, demonstrated acute abdominal findings and when said symptoms and findings began.

57) The Nursing Staff was directly informed of plaintiff's decedent's concerns that no on-call, attending, admitting or primary care physician had examined, evaluated or otherwise assessed him in person.

58) The Nursing Staff was requested to contact defendant DR. ALAN REICH and notify him of plaintiff's decedent's concerns, acute abdominal symptoms, acute abdominal findings, when said symptoms and findings began and request defendant DR. ALAN REICH to attend to and evaluate plaintiff's decedent in person.

59) The Nursing Staff claimed to have contacted defendant DR. ALAN REICH, informed him of the above and defendant DR. ALAN REICH had refused to evaluate or attend to plaintiff's decedent in person, stating that he would manage plaintiff's decedent from home.

60) Defendant DR. ALAN REICH's refusal to evaluate or attend in person plaintiff's decedent, who was concerned that he had not been examined, evaluated or otherwise assessed by an on-call, attending, admitting or primary care physician, was suffering from acute abdominal symptoms and demonstrated acute abdominal findings was conduct that is extreme and outrageous.

61) Defendant DR. ALAN REICH either intended that his conduct should inflict severe emotional distress, or knew that there was a high probability that his conduct would cause severe emotional distress.

62) Defendant DR. ALAN REICH's conduct in fact caused plaintiff's decedent severe emotional distress.

63) Plaintiff is the son of plaintiff's decedent.

64) Plaintiff was present at the time of defendant DR. ALAN REICH's extreme and outrageous conduct.

65) Plaintiff was aware that this conduct caused injury to the plaintiff's decedent.

66) As a result, plaintiff suffered severe emotional distress.

67) The Nursing Staff on the ward of defendant RUSH NORTH SHORE MEDICAL CENTER to which plaintiff's decedent was initially admitted (hereinafter "Nursing Staff") was directly informed that plaintiff's decedent was suffering from an acute abdomen.

68) The Nursing Staff was directly informed of plaintiff's decedent's concerns that no on-call, attending, admitting or primary care physician had examined, evaluated or otherwise assessed him in person.

69) The Nursing Staff responded to plaintiff's decedent's concern by saying that he had been examined by the on-call medical staff.

70) The Nursing Staff knew or should have known that their response was untrue.

71) The Nursing Staff's misinforming plaintiff's decedent, telling him that he had been examined when in fact he had not, is conduct that is extreme and outrageous.

72) The Nursing Staff either intended that their conduct should inflict severe emotional distress, or knew that there was a high probability that their conduct would cause severe emotional distress.

73) The Nursing Staff's conduct in fact caused plaintiff's decedent severe emotional distress.

74) The Nursing Staff on the ward of defendant RUSH NORTH SHORE MEDICAL CENTER to which plaintiff's decedent was initially admitted (hereinafter "Nursing Staff") was directly informed that plaintiff's decedent was suffering from an acute abdomen.

75) The Nursing Staff was directly informed of plaintiff's decedent's concerns that no on-call, attending, admitting or primary care physician had examined, evaluated or otherwise assessed him in person.

76) The Nursing Staff responded to plaintiff's decedent's concern by saying that he had been examined by the on-call medical staff.

77) The Nursing Staff knew or should have known that their response was untrue.

78) The Nursing Staff's misinforming plaintiff's decedent, telling him that he had been examined when in fact he had not, is conduct that is extreme and outrageous.

79) The Nursing Staff either intended that their conduct should inflict severe emotional distress, or knew that there was a high probability that their conduct would cause severe emotional distress.

80) The Nursing Staff's conduct in fact caused plaintiff's decedent severe emotional distress.

81) Plaintiff is the son of plaintiff's decedent.

82) Plaintiff was present at the time of The Nursing Staff's extreme and outrageous conduct.

83) Plaintiff was aware that this conduct caused injury to the plaintiff's decedent.

84) As a result, plaintiff suffered severe emotional distress.

85) Defendant OSAMA IBRAHIM, MD was directly informed that plaintiff's decedent was suffering from an acute abdomen.

86) Defendant OSAMA IBRAHIM, MD claimed that plaintiff's decedent was examined personally by him, albeit incompletely.

87) In fact, defendant OSAMA IBRAHIM, MD had never examined plaintiff's decedent.

88) Defendant OSAMA IBRAHIM, MD knew that his response was untrue.

89) Defendant OSAMA IBRAHIM, MD's lying to plaintiff's decedent, telling him that plaintiff's decedent had been examined when in fact he had not, is conduct that is extreme and outrageous.

90) Defendant OSAMA IBRAHIM, MD either intended that his conduct should inflict severe emotional distress, or knew that there was a high probability that his conduct would cause severe emotional distress.

91) Defendant OSAMA IBRAHIM, MD's conduct in fact caused plaintiff's decedent severe emotional distress.

92) Defendant OSAMA IBRAHIM, MD was directly informed that plaintiff's decedent was suffering from an acute abdomen.

93) Defendant OSAMA IBRAHIM, MD claimed that plaintiff's decedent was examined personally by him, albeit incompletely.

94) In fact, defendant OSAMA IBRAHIM, MD had never examined plaintiff's decedent.

95) Defendant OSAMA IBRAHIM, MD knew that his response was untrue.

96) Defendant OSAMA IBRAHIM, MD's lying to plaintiff's decedent, telling him that plaintiff's decedent had been examined when in fact he had not, is conduct that is extreme and outrageous.

97) Defendant OSAMA IBRAHIM, MD either intended that his conduct should inflict severe emotional distress, or knew that there was a high probability that his conduct would cause severe emotional distress.

98) Defendant OSAMA IBRAHIM, MD's conduct in fact caused plaintiff's decedent severe emotional distress.

99) Plaintiff is the son of plaintiff's decedent.

100) Plaintiff was present at the time of defendant OSAMA IBRAHIM, MD's extreme and outrageous conduct.

101) Plaintiff was aware that this conduct caused injury to the plaintiff's decedent.

102) As a result, plaintiff suffered severe emotional distress.

103) The Nursing Staff on the ward of defendant RUSH NORTH SHORE MEDICAL CENTER to which plaintiff's decedent was initially admitted (hereinafter "Nursing Staff") and defendant LAWRENCE LAYFER, MD were directly informed that plaintiff's decedent was suffering from an acute abdomen and could be suffering from ischemic bowel.

104) The Nursing Staff and defendant LAWRENCE LAYFER, MD were directly informed of plaintiff's decedent's concerns that no on-call, attending, admitting or primary care physician had examined, evaluated or otherwise assessed him in person.

105) Defendant LAWRENCE LAYFER, MD responded to plaintiff's decedent concern and request by refusing care.

106) Defendant LAWRENCE LAYFER, MD's refusal to provide care to plaintiff's decedent, who was suffering from an acute abdomen from ischemic bowel, is conduct that is extreme and outrageous.

107) Defendant LAWRENCE LAYFER, MD either intended that his conduct should inflict severe emotional distress, or knew that there was a high probability that his

conduct would cause severe emotional distress.

108) Defendant LAWRENCE LAYFER, MD's conduct in fact caused plaintiff's decedent severe emotional distress.

109) The Nursing Staff on the ward of defendant RUSH NORTH SHORE MEDICAL CENTER to which plaintiff's decedent was initially admitted (hereinafter "Nursing Staff") and defendant LAWRENCE LAYFER, MD were directly informed that plaintiff's decedent was suffering from an acute abdomen and could be suffering from ischemic bowel.

110) The Nursing Staff and defendant LAWRENCE LAYFER, MD were directly informed of plaintiff's decedent's concerns that no on-call, attending, admitting or primary care physician had examined, evaluated or otherwise assessed him in person.

111) Defendant LAWRENCE LAYFER, MD responded to plaintiff's decedent concern and request by refusing care.

112) Defendant LAWRENCE LAYFER, MD's refusal to provide care to plaintiff's decedent, who was suffering from an acute abdomen from ischemic bowel, is conduct that is extreme and outrageous.

113) Defendant LAWRENCE LAYFER, MD either intended that his conduct should inflict severe emotional distress, or knew that there was a high probability that his conduct would cause severe emotional distress.

114) Defendant LAWRENCE LAYFER, MD's conduct in fact caused plaintiff's decedent severe emotional distress.

115) Plaintiff is the son of plaintiff's decedent.

116) Plaintiff was present at the time of defendant LAWRENCE LAYFER, MD's extreme and outrageous conduct.

117) Plaintiff was aware that this conduct caused injury to the plaintiff's decedent.

118) As a result, plaintiff suffered severe emotional distress.

119) Plaintiff's decedent collapsed.

120) After being assisted back into bed, plaintiff's decedent, JOSEPH APPLEBAUM was concerned that no on-call, attending, admitting or primary care physician had examined, evaluated or otherwise assessed him in person.

121) The Nursing Staff on the ward of defendant RUSH NORTH SHORE MEDICAL CENTER to which plaintiff's decedent was initially admitted (hereinafter "Nursing Staff") was informed of plaintiff's decedent's concerns that no on-call, attending, admitting or primary care physician had examined, evaluated or otherwise assessed him in person.

122) Defendant Nursing Staff responded to plaintiff's decedent concern and request by refusing to inform any physician(s) of plaintiff's decedent's collapse.

123) Defendant Nursing Staff either intended that their conduct should inflict severe emotional distress, or knew that there was a high probability that their conduct would cause severe emotional distress.

124) Defendant Nursing Staff's conduct in fact caused plaintiff's decedent severe emotional distress.

125) Plaintiff's decedent collapsed.

126) After being assisted back into bed, plaintiff's decedent, JOSEPH APPLEBAUM was concerned that no on-call, attending, admitting or primary care physician had examined, evaluated or otherwise assessed him in person.

127) The Nursing Staff on the ward of defendant RUSH NORTH SHORE MEDICAL CENTER to which plaintiff's decedent was initially admitted (hereinafter "Nursing Staff") was informed of plaintiff's decedent's concerns that no on-call, attending, admitting or primary care physician had examined, evaluated or otherwise assessed him in person.

128) Defendant Nursing Staff responded to plaintiff's decedent concern and request by refusing to inform any physician(s) of plaintiff's decedent's collapse.

129) Defendant Nursing Staff either intended that their conduct should inflict severe emotional distress, or knew that there was a high probability that their conduct would cause severe emotional distress.

130) Defendant Nursing Staff's conduct in fact caused plaintiff's decedent severe emotional distress.

131) Plaintiff is the son of plaintiff's decedent.

132) Plaintiff was present at the time of defendant Nursing Staff's extreme and outrageous conduct.

133) Plaintiff was aware that this conduct caused injury to the plaintiff's decedent.

134) As a result, plaintiff suffered severe emotional distress.

135) Defendant EMEKA EZE, MD, who claimed to be the resident physician in charge of the Medical Intensive Care Unit at defendant RUSH NORTH SHORE MEDICAL

CENTER (hereinafter “DR. EZE”) was informed that plaintiff’s decedent was suffering from an acute abdomen and could be suffering from ischemic bowel.

136) Defendant DR. EZE was informed of plaintiff’s decedent’s concern that no surgeon had examined, evaluated or otherwise assessed plaintiff’s decedent and was requested to obtain a consult from a surgeon.

137) Defendant DR. EZE responded to plaintiff’s decedent’s concern and request by refusing to obtain a consult from a surgeon.

138) Defendant DR. EZE’s refusal to obtain a consult from a surgeon for plaintiff’s decedent who was suffering from an acute abdomen from ischemic bowel, was conduct that is extreme and outrageous.

139) Defendant DR. EZE either intended that his conduct should inflict severe emotional distress, or knew that there was a high probability that his conduct would cause severe emotional distress.

140) Defendant DR. EZE’s conduct in fact caused plaintiff’s decedent severe emotional distress.

141) Defendant EMEKA EZE, MD, who claimed to be the resident physician in charge of the Medical Intensive Care Unit at defendant RUSH NORTH SHORE MEDICAL CENTER (hereinafter “DR. EZE”) was informed that plaintiff’s decedent was suffering from an acute abdomen and could be suffering from ischemic bowel.

142) Defendant DR. EZE was informed of plaintiff’s decedent’s concern that no surgeon had examined, evaluated or otherwise assessed plaintiff’s decedent and was requested to obtain a consult from a surgeon.

143) Defendant DR. EZE responded to plaintiff's decedent's concern and request by refusing to obtain a consult from a surgeon.

144) Defendant DR. EZE's refusal to obtain a consult from a surgeon for plaintiff's decedent who was suffering from an acute abdomen from ischemic bowel, was conduct that is extreme and outrageous.

145) Defendant DR. EZE either intended that his conduct should inflict severe emotional distress, or knew that there was a high probability that his conduct would cause severe emotional distress.

146) Defendant DR. EZE's conduct in fact caused plaintiff's decedent severe emotional distress.

147) Plaintiff is the son of plaintiff's decedent.

148) Plaintiff was present at the time of defendant DR. EZE's extreme and outrageous conduct.

149) Plaintiff was aware that this conduct caused injury to the plaintiff's decedent.

150) As a result, plaintiff suffered severe emotional distress.

151) Defendant JOHN DOE DOCTOR #338 (hereinafter "DR. JOHN DOE"), who claimed to be a surgical resident at RUSH NORTH SHORE MEDICAL CENTER, was informed that plaintiff's decedent was suffering from an acute abdomen and could be suffering from ischemic bowel.

152) Defendant DR. JOHN DOE, performed abdominal taps on plaintiff's decedent.

153) Defendant DR. JOHN DOE, was requested by plaintiff's decedent's family, a licensed medical doctor in the State of Illinois, to call an attending surgeon or chief

resident to attend to plaintiff's decedent.

154) Defendant DR. JOHN DOE refused.

155) Defendant DR. JOHN DOE's refusal to call an attending surgeon or chief surgical resident and inform him/her to attend to plaintiff's decedent who was suffering from an acute abdomen from ischemic bowel and who DR. JOHN DOE knew could be suffering from ischemic bowel, is conduct that is extreme and outrageous.

156) Defendant DR. JOHN DOE either intended that his conduct should inflict severe emotional distress, or knew that there was a high probability that his conduct would cause severe emotional distress.

157) Defendant DR. JOHN DOE's conduct in fact caused plaintiff's decedent severe emotional distress.

158) Defendant JOHN DOE DOCTOR #338 (hereinafter "DR. JOHN DOE"), who claimed to be a surgical resident at RUSH NORTH SHORE MEDICAL CENTER, was informed that plaintiff's decedent was suffering from an acute abdomen and could be suffering from ischemic bowel.

159) Defendant DR. JOHN DOE, performed abdominal taps on plaintiff's decedent.

160) Defendant DR. JOHN DOE, was requested by plaintiff's decedent's family, a licensed medical doctor in the State of Illinois, to call an attending surgeon or chief resident to attend to plaintiff's decedent.

161) Defendant DR. JOHN DOE refused.

162) Defendant DR. JOHN DOE's refusal to call an attending surgeon or chief surgical resident and inform him/her to attend to plaintiff's decedent who was suffering from an

acute abdomen from ischemic bowel and who DR. JOHN DOE knew could be suffering from ischemic bowel, is conduct that is extreme and outrageous.

163) Defendant DR. JOHN DOE either intended that his conduct should inflict severe emotional distress, or knew that there was a high probability that his conduct would cause severe emotional distress.

164) Defendant DR. JOHN DOE's conduct in fact caused plaintiff's decedent severe emotional distress.

165) Plaintiff is the son of plaintiff's decedent.

166) Plaintiff was present at the time of defendant DR. JOHN DOE's extreme and outrageous conduct.

167) Plaintiff was aware that this conduct caused injury to the plaintiff's decedent.

168) As a result, plaintiff suffered severe emotional distress.

169) Based on information and belief, defendant JOSE VELASCO, MD, who was described as Chairman of the Department of Surgery at defendant RUSH NORTH SHORE MEDICAL CENTER and affiliated with defendant RUSH UNIVERSITY MEDICAL CENTER (hereinafter "DR. JOSE VELASCO") was informed hours before plaintiff's decedent's death, that plaintiff's decedent was suffering from an acute abdomen from ischemic or necrotic bowel.

170) Based on information and belief, defendant DR. JOSE VELASCO was informed hours before plaintiff's decedent's death of plaintiff's decedent's condition and delayed attending to plaintiff's decedent..

171) Defendant DR. JOSE VELASCO knew or should have known that only surgical

intervention would offer plaintiff's decedent an opportunity to survive.

172) Defendant DR. JOSE VELASCO knew or should have known that by delaying surgical intervention or not causing plaintiff's decedent to be attended to by another surgeon, plaintiff's decedent would die.

173) Defendant DR. JOSE VELASCO's refusal to timely attend to plaintiff's decedent who was suffering from an acute abdomen from ischemic or necrotic bowel or cause plaintiff's decedent to be attended to by another surgeon is conduct that is extreme and outrageous.

174) Defendant DR. JOSE VELASCO either intended that his conduct should inflict severe emotional distress, or knew that there was a high probability that his conduct would cause severe emotional distress.

175) Defendant DR. JOSE VELASCO's conduct in fact caused plaintiff's decedent severe emotional distress.

176) Based on information and belief, defendant JOSE VELASCO, MD, who was described as Chairman of the Department of Surgery at defendant RUSH NORTH SHORE MEDICAL CENTER and affiliated with defendant RUSH UNIVERSITY MEDICAL CENTER (hereinafter "DR. JOSE VELASCO") was informed hours before plaintiff's decedent's death, that plaintiff's decedent was suffering from an acute abdomen from ischemic or necrotic bowel.

177) Based on information and belief, defendant DR. JOSE VELASCO was informed hours before plaintiff's decedent's death of plaintiff's decedent's condition and delayed attending to plaintiff's decedent..

178) Defendant DR. JOSE VELASCO knew or should have known that only surgical intervention would offer plaintiff's decedent an opportunity to survive.

179) Defendant DR. JOSE VELASCO knew or should have known that by delaying surgical intervention or not causing plaintiff's decedent to be attended to by another surgeon, plaintiff's decedent would die.

180) Defendant DR. JOSE VELASCO's refusal to timely attend to plaintiff's decedent who was suffering from an acute abdomen from ischemic or necrotic bowel or cause plaintiff's decedent to be attended to by another surgeon is conduct that is extreme and outrageous.

181) Defendant DR. JOSE VELASCO either intended that his conduct should inflict severe emotional distress, or knew that there was a high probability that his conduct would cause severe emotional distress.

182) Defendant DR. JOSE VELASCO's conduct in fact caused plaintiff's decedent severe emotional distress.

183) Plaintiff is the son of plaintiff's decedent.

184) Plaintiff was present at the time of defendant DR. JOSE VELASCO's extreme and outrageous conduct.

185) Plaintiff was aware that this conduct caused injury to the plaintiff's decedent.

186) As a result, plaintiff suffered severe emotional distress.

187) Based on information and belief, defendants LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, NORTH

SHORE RADIOLOGY, RUSH NORTH SHORE MEDICAL CENTER DEPARTMENT OF RADIOLOGY and/or NORTH SHORE MRI/CT CENTRE (hereinafter “RADIOLOGISTS”) were aware of an abnormal abdominal radiograph of plaintiff’s decedent, JOSEPH APPLEBAUM, performed prior to plaintiff’s decedent’s transfer to the Medical Intensive Care Unit.

188) Based on information and belief, defendant RADIOLOGISTS knew that the abnormality on the abdominal radiograph of plaintiff’s decedent, JOSEPH APPLEBAUM, could be associated with a life-threatening condition(s).

189) Based on information and belief, defendant RADIOLOGISTS made no effort to inform any physician involved in plaintiff’s decedent’s care that the abnormality on the abdominal radiograph of plaintiff’s decedent, JOSEPH APPLEBAUM, could be associated with a life-threatening condition(s).

190) Defendant RADIOLOGISTS knew or should have known that by not informing any physician involved in plaintiff’s decedent’s care that the abnormality on the abdominal radiograph of plaintiff’s decedent, JOSEPH APPLEBAUM could be associated with a life-threatening condition(s), that plaintiff’s decedent could suffer and die.

191) Defendant RADIOLOGISTS, by not informing any physician involved in plaintiff’s decedent’s care that the abnormality on the abdominal radiograph of plaintiff’s decedent, JOSEPH APPLEBAUM, could be associated with a life-threatening condition and that plaintiff’s decedent could suffer and die is conduct that is extreme and outrageous.

192) Defendant RADIOLOGISTS either intended that their conduct should inflict severe emotional distress, or knew that there was a high probability that their conduct would cause severe emotional distress.

193) Defendant RADIOLOGISTS' conduct in fact caused plaintiff's decedent severe emotional distress.

194) Based on information and belief, defendants LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, NORTH SHORE RADIOLOGY, RUSH NORTH SHORE MEDICAL CENTER DEPARTMENT OF RADIOLOGY and/or NORTH SHORE MRI/CT CENTRE (hereinafter "RADIOLOGISTS") were aware of an abnormal abdominal radiograph of plaintiff's decedent, JOSEPH APPLEBAUM, performed prior to plaintiff's decedent's transfer to the Medical Intensive Care Unit.

195) Based on information and belief, defendant RADIOLOGISTS knew that the abnormality on the abdominal radiograph of plaintiff's decedent, JOSEPH APPLEBAUM, could be associated with a life-threatening condition(s).

196) Based on information and belief, defendant RADIOLOGISTS made no effort to inform any physician involved in plaintiff's decedent's care that the abnormality on the abdominal radiograph of plaintiff's decedent, JOSEPH APPLEBAUM, could be associated with a life-threatening condition(s).

197) Defendant RADIOLOGISTS knew or should have known that by not informing any physician involved in plaintiff's decedent's care that the abnormality on the abdominal radiograph of plaintiff's decedent, JOSEPH APPLEBAUM could be associated with a life-threatening condition(s), that plaintiff's decedent could suffer and die.

198) Defendant RADIOLOGISTS, by not informing any physician involved in plaintiff's decedent's care that the abnormality on the abdominal radiograph of plaintiff's decedent, JOSEPH APPLEBAUM, could be associated with a life-threatening condition and that plaintiff's decedent could suffer and die is conduct that is extreme and outrageous.

199) Defendant RADIOLOGISTS either intended that their conduct should inflict severe emotional distress, or knew that there was a high probability that their conduct would cause severe emotional distress.

200) Defendant RADIOLOGISTS' conduct in fact caused plaintiff's decedent severe emotional distress.

201) Plaintiff is the son of plaintiff's decedent.

202) Plaintiff was present at the time of defendant DR. JOSE VELASCO's extreme and outrageous conduct.

203) Plaintiff was aware that this conduct caused injury to the plaintiff's decedent.

204) As a result, plaintiff suffered severe emotional distress.

205) As a result of one or more of the aforesaid acts of intentional infliction of emotional distress by the defendant, RUSH NORTH SHORE MEDICAL CENTER, by and through its authorized physicians, nurses, technicians and other healthcare professionals, agents and employees including but not limited to the defendants, ALAN REICH, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, AND VADIM

LEYENSON, and the defendant, CHEST MEDICINE CONSULTANTS, S.C., by and through its authorized physician, agent and employee, defendant, VADIM LEYENSON, MD, and the defendant, UNIVERSITY RHEUMATOLOGISTS by and through its authorized physician, agent and employee, defendant, LAWRENCE LAYFER, MD, and the defendant, NORTH SHORE RADIOLOGY, by and through its authorized physicians, agents and employees, defendants LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD and the defendant, RUSH NORTH SHORE MEDICAL CENTER DEPARTMENT OF RADIOLOGY, by and through its authorized physicians, agents and employees, defendants LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD, and the defendant, NORTH SHORE MRI/CT CENTRE, by and through its authorized physicians, agents and employees, defendants LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD and C. FISHER, MD, and the defendant, RUSH UNIVERSITY MEDICAL CENTER, by and through its authorized physicians, agents and employees, defendants, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, and JOHN DOE DOCTOR #338, and the defendant, RUSH MEDICAL COLLEGE, by and through its authorized physicians, agents and employees, defendants, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, and JOHN DOE DOCTOR #338, and the defendants, ALAN REICH,

MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, AND VADIM LEYENSON, MD, individually, the plaintiff's decedent, JOSEPH APPLEBAUM and plaintiff, MICHAEL APPLEBAUM suffered severe emotional distress.

WHEREFORE, the plaintiff, MICHAEL APPLEBAUM, Special Administrator of the Estate of JOSEPH APPLEBAUM, deceased, demands judgment against the defendants, RUSH NORTH SHORE MEDICAL CENTER, ALAN REICH, MD, LEONARD BERLIN, MD, MICHAEL RACENSTEIN, MD, GARY NOVETSKY, MD, M. EDELMAN, MD, AVRUM EPSTEIN, MD, M. SMITH, MD, J. ALEXANDER, MD, C. FISHER, MD, DR. IBRAHIM, #074/MOD, EMEKA EZE, MD, JOSE VELASCO, MD, LAWRENCE LAYFER, MD, JOHN DOE DOCTOR #338, VADIM LEYENSON, MD, CHEST MEDICINE CONSULTANTS, NORTH SHORE RADIOLOGY, RUSH MEDICAL COLLEGE, UNIVERSITY RHEUMATOLOGISTS, RUSH NORTH SHORE MEDICAL CENTER DEPARTMENT OF RADIOLOGY, NORTH SHORE MRI/CT CENTRE RUSH UNIVERSITY MEDICAL CENTER, and against each of them in a sum in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) and any further relief that the Court deems appropriate, including punitive damages.

Count V – Conscious Misrepresentation Involving Risk of Physical Harm

Plaintiff, MICHAEL APPLEBAUM, Special Administrator of the Estate of JOSEPH APPLEBAUM, deceased, complaining of the defendants, RUSH NORTH SHORE MEDICAL CENTER, DR. IBRAHIM, #074/MOD, RUSH MEDICAL COLLEGE, RUSH UNIVERSITY MEDICAL CENTER and against each of them, says:

1-29) Plaintiff repeats and realleges paragraphs 1 through 28 of Count I of this complaint at law as if fully set forth herein.

30) On and after December 01, 2003, the defendant, RUSH NORTH SHORE MEDICAL CENTER, by and through its authorized physician, agent and employee, defendant DR. IBRAHIM, #074/MOD and the defendant, RUSH UNIVERSITY MEDICAL CENTER, by and through its authorized physician, agent and employee, defendant DR. IBRAHIM, #074/MOD and the defendant, RUSH MEDICAL COLLEGE, by and through its authorized physician, agent and employee, defendant, DR. IBRAHIM, and Defendant DR. IBRAHIM, #074/MOD individually, were guilty of one or more of the following acts of conscious misrepresentation involving risk of physical harm:

31) Defendant OSAMA IBRAHIM, MD, was aware that plaintiff's decedent was suffering from an acute abdomen.

32) Defendant OSAMA IBRAHIM, MD, consciously misrepresented his attending to plaintiff's decedent, JOSEPH APPLEBAUM, by claiming to have examined him.

33) Defendant OSAMA IBRAHIM, MD, never examined plaintiff's decedent, JOSEPH APPLEBAUM.

34) Defendant OSAMA IBRAHIM, MD knew or should have known that his conscious misrepresentation would result in risk of physical harm to plaintiff's decedent, JOSEPH

APPLEBAUM.

35) Based on information and belief, defendant OSAMA IBRAHIM, MD's conscious misrepresentation(s) resulted in physical harm to plaintiff's decedent from delayed diagnosis and treatment of plaintiff's decedent's acute abdomen and progression of the ischemic process affecting plaintiff's decedent's bowel, which process resulted in the death of plaintiff's decedent, JOSEPH APPLEBAUM.

WHEREFORE, the plaintiff, MICHAEL APPLEBAUM, Special Administrator of the Estate of JOSEPH APPLEBAUM, deceased, demands judgment against the defendants, RUSH NORTH SHORE MEDICAL CENTER, DR. IBRAHIM, #074/MOD, RUSH MEDICAL COLLEGE, RUSH UNIVERSITY MEDICAL CENTER, and against each of them in a sum in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) and any further relief that the Court deems appropriate, including punitive damages.

Count VI - Duty To Act When Defendant Has Created The Danger

Plaintiff, MICHAEL APPLEBAUM, Special Administrator of the Estate of JOSEPH APPLEBAUM, deceased, complaining of the defendants, RUSH NORTH SHORE MEDICAL CENTER, DR. IBRAHIM, #074/MOD, RUSH MEDICAL COLLEGE, RUSH UNIVERSITY MEDICAL CENTER and against each of them, says:

1-29) Plaintiff repeats and realleges paragraphs 1 through 28 of Count I of this complaint at law as if fully set forth herein.

30) On and after December 01, 2003, the defendant, RUSH NORTH SHORE MEDICAL CENTER, by and through its authorized physician, agent and employee, defendant DR.

IBRAHIM, #074/MOD and the defendant, RUSH UNIVERSITY MEDICAL CENTER, by and through its authorized physician, agent and employee, defendant DR. IBRAHIM, #074/MOD and the defendant, RUSH MEDICAL COLLEGE, by and through its authorized physician, agent and employee, defendant, DR. IBRAHIM, and Defendant DR. IBRAHIM, #074/MOD individually, were guilty of one or more of the following breaches of their duty to act when defendant(s) had created the danger to the plaintiff's decedent:

32) Defendant OSAMA IBRAHIM, MD, never examined, evaluated or assessed in person plaintiff's decedent, JOSEPH APPLEBAUM.

33) Defendant OSAMA IBRAHIM, MD, by failing to examine, evaluate or otherwise assess in person plaintiff's decedent, JOSEPH APPLEBAUM, created the danger into which plaintiff's decedent, JOSEPH APPLEBAUM was placed, said danger being physical harm to plaintiff's decedent from delayed diagnosis and treatment of plaintiff's decedent's acute abdomen and progression of the ischemic process affecting plaintiff's decedent's bowel.

34) Defendant OSAMA IBRAHIM, MD, by creating the danger to plaintiff's decedent, JOSEPH APPLEBAUM had a duty to act to relieve the danger he created.

35) Defendant OSAMA IBRAHIM, MD intentionally did not act to relieve the danger he created.

36) Even after being informed by plaintiff's decedent's family that plaintiff's decedent was suffering from an acute abdomen, defendant OSAMA IBRAHIM, MD, still did not examine, evaluate or otherwise assess in person plaintiff's decedent, JOSEPH APPLEBAUM, cause care to be initiated, initiate or coordinate care, inform an attending

of the problems or otherwise act to provide care.

37) Based on information and belief, as a consequence of defendant OSAMA IBRAHIM, MD's intentional breach of his duty to act to relieve the danger he created, even greater danger from physical harm to plaintiff's decedent resulted from delayed diagnosis and treatment of plaintiff's decedent's acute abdomen and further progression of the ischemic process affecting plaintiff's decedent's bowel, which resulted in the death of plaintiff's decedent, JOSEPH APPLEBAUM.

WHEREFORE, the plaintiff, MICHAEL APPLEBAUM, Special Administrator of the Estate of JOSEPH APPLEBAUM, deceased, demands judgment against the defendants, RUSH NORTH SHORE MEDICAL CENTER, DR. IBRAHIM, #074/MOD, RUSH MEDICAL COLLEGE, RUSH UNIVERSITY MEDICAL CENTER, and against each of them in a sum in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) and any further relief that the Court deems appropriate, including punitive damages.

Plaintiff Pro Se

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