

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

THE ESTATE OF RICKY LEON NAPPER,
by and through Rhonda Hays, Ancillary
Executor and David S. Banas, Ancillary
Administrator WWA
c/o Eadie Hill Trial Lawyers
3100 E 45 St., Suite 400
Cleveland, OH 44127

CASE NO:

JUDGE:

COMPLAINT

and

[Jury Demand Endorsed Hereon]

RHONDA HAYS, in her individual
capacity
c/o Eadie Hill Trial Lawyers
3100 E 45 St., Suite 400
Cleveland, OH 44127

PLAINTIFFS

vs.

SUMMA HEALTH
d/b/a Summa Health System Akron
Campus aka Akron City Hospital and
Summa Health Medical Group
c/o Robert A. Gerberry
525 Market Street
Akron, OH 44304

and

SUMMA HEALTH SYSTEM
d/b/a Summa Health System Akron
Campus aka Akron City Hospital and
Summa Health Medical Group
c/o Robert A. Gerberry
525 Market Street
Akron, OH 44304

and

SUMMA HEALTH SYSTEM CORP.
d/b/a Summa Health System Akron

Campus aka Akron City Hospital and)
 Summa Health Medical Group)
 c/o Robert A. Gerberry)
 525 Market Street)
 Akron, OH 44304)

and)

SUMMA PHYSICIANS, INC.)
 c/o Robert A. Gerberry)
 525 Market Street)
 Akron, OH 44304)

and)

NATHAN R. BLECKER, MD)
 c/o Summa Health Medical Group Trauma)
 55 Arch Street, Suite 2A)
 Akron, OH 44304)

and)

JOSHUA E. NASH, DO)
 c/o Summa Health Medical Group Trauma)
 55 Arch Street, Suite 2A)
 Akron, OH 44304)

and)

ERIC J. TURNEY, MD)
 c/o Summa Health Medical Akron Vascular)
 Associates)
 95 Arch Street, Suite 215)
 Akron, OH 44304)

and)

ALEKSANDAR GEUBE, MD)
 c/o Summa Health Medical Group Trauma)
 55 Arch Street, Suite 2A)
 Akron, OH 44304)

and)

VITALI AZOUZ, MD)
d/b/a Summa Health Akron City Hospital)

c/o Robert A. Gerberry)
525 Market Street)
Akron, OH 44304)
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and)
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MERIDITH GINESI, MD)
d/b/a Summa Health Akron City Hospital)
c/o Robert A. Gerberry)
525 Market Street)
Akron, OH 44304)
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and)
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HEATHER BAKER, APRN - CNP)
c/o Summa Health System – Akron)
Campus)
141 N. Forge St.)
Akron, OH 44304)
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and)
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JULIE A MCCARTNEY, APRN – CNP)
c/o Summa Health System – Akron)
Campus)
141 N. Forge St.)
Akron, OH 44304)
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and)
))
CYNTHIA MCWORTER, RN)
c/o Summa Health System – Akron)
Campus)
141 N. Forge St.)
Akron, OH 44304)
))
DEFENDANTS.)

Plaintiff, for its Complaint against the above-named Defendants, states and avers as follows:

PARTIES, JURISDICTION, AND VENUE

1. Ricky Napper died July 20, 2018. He was 61 years old.

2. Rhonda Hays is the spouse of Ricky Napper, deceased, a statutory next-of-kin, who brings this case on behalf of the Estate of Ricky Napper and any statutory beneficiaries and next-of-kin, in her capacity as Ancillary Executor of the Estate of Ricky Napper and also in her individual capacity for the loss of her loss of consortium during the period of Ricky Napper's injuries and death.

3. At all times relevant herein, SUMMA HEALTH was a corporation, incorporated under the laws of the State of Ohio, with its principal place of business in Summit County, Ohio, and which employs physicians, physician assistants, nurses, and other medical personnel to evaluate, care for, and treat patients, and which held itself out to the public as a provider of medical care and treatment and does business under the names Summa Health System Akron Campus aka Akron City Hospital and Summa Health Medical Group.

4. At all times relevant herein, SUMMA HEALTH SYSTEM was a corporation, incorporated under the laws of the State of Ohio, with its principal place of business in Summit County, Ohio, and which employs physicians, physician assistants, nurses, and other medical personnel to evaluate, care for, and treat patients, and which held itself out to the public as a provider of medical care and treatment and does business under the names Summa Health System Akron Campus aka Akron City Hospital and Summa Health Medical Group.

5. At all times relevant herein, SUMMA HEALTH SYSTEM CORP. was a corporation, incorporated under the laws of the State of Ohio, with its principal place of business in Summit County, Ohio, and which employs physicians, physician assistants, nurses, and other medical personnel to evaluate, care for, and treat patients, and which held itself out to the public as a provider of medical care and treatment and does business

under the names Summa Health System Akron Campus aka Akron City Hospital and Summa Health Medical Group.

6. At all times relevant herein, SUMMA PHYSICIANS, INC. was a corporation, incorporated under the laws of the State of Ohio, with its principal place of business in Summit County, Ohio, and which employs physicians, physician assistants, nurses, and other medical personnel to evaluate, care for, and treat patients, and which held itself out to the public as a provider of medical care and treatment and provide through the provision of services at Summa Health System Akron Campus aka Akron City Hospital and Summa Health Medical Group.

7. Defendant NATHAN R. BLECKER, MD was, at all relevant times, a licensed physician authorized to practice medicine in the State of Ohio who was acting within the course and scope and in furtherance of his / her employment with Summa Health, Summa Health System, Summa Health System Corp., and / or Summa Physicians, Inc. and provided medical care and treatment to Ricky Napper while he was a patient of Summa Health System – Akron Campus aka Akron City Hospital.

8. Defendant JOSHUA E. NASH, DO was, at all relevant times, a licensed physician authorized to practice medicine in the State of Ohio who was acting within the course and scope and in furtherance of his / her employment with Summa Health, Summa Health System, Summa Health System Corp., and / or Summa Physicians, Inc. and provided medical care and treatment to Ricky Napper while he was a patient of Summa Health System – Akron Campus aka Akron City Hospital.

9. Defendant ERIC J. TURNEY, MD was, at all relevant times, a licensed physician authorized to practice medicine in the State of Ohio who was acting within the course and scope and in furtherance of his / her employment with Summa Health,

Summa Health System, Summa Health System Corp., and / or Summa Physicians, Inc. and provided medical care and treatment to Ricky Napper while he was a patient of Summa Health System – Akron Campus aka Akron City Hospital.

10. Defendant ALEKSANDAR GEUBE, MD was, at all relevant times, a licensed physician authorized to practice medicine in the State of Ohio who was acting within the course and scope and in furtherance of his / her employment with Summa Health, Summa Health System, Summa Health System Corp., and / or Summa Physicians, Inc. and provided medical care and treatment to Ricky Napper while he was a patient of Summa Health System – Akron Campus aka Akron City Hospital.

11. Defendant VITALI AZOUZ, MD was, at all relevant times, a licensed physician authorized to practice medicine in the State of Ohio who was acting within the course and scope and in furtherance of his / her employment with Summa Health, Summa Health System, Summa Health System Corp., and / or Summa Physicians, Inc. and provided medical care and treatment to Ricky Napper while he was a patient of Summa Health System – Akron Campus aka Akron City Hospital.

12. Defendant MERIDITH GINESI, MD was, at all relevant times, a licensed physician authorized to practice medicine in the State of Ohio who was acting within the course and scope and in furtherance of his / her employment with Summa Health, Summa Health System, Summa Health System Corp., and / or Summa Physicians, Inc. and provided medical care and treatment to Ricky Napper while he was a patient of Summa Health System – Akron Campus aka Akron City Hospital.

13. Defendant HEATHER BAKER, APRN – CNP was, at all relevant times, an advanced practice registered nurse and certified nurse practitioner authorized to practice in the State of Ohio who was acting within the course and scope and in furtherance of his

/ her employment with Summa Health, Summa Health System, Summa Health System Corp., and / or Summa Physicians, Inc. and provided medical care and treatment to Ricky Napper while he was a patient of Summa Health System – Akron Campus aka Akron City Hospital.

14. Defendant JULIE A MCCARTNEY, APRN – CNP was, at all relevant times, an advanced practice registered nurse and certified nurse practitioner authorized to practice in the State of Ohio who was acting within the course and scope and in furtherance of his / her employment with Summa Health, Summa Health System, Summa Health System Corp., and / or Summa Physicians, Inc. and provided medical care and treatment to Ricky Napper while he was a patient of Summa Health System – Akron Campus aka Akron City Hospital.

15. Defendant CYNTHIA MCWORTER, RN was, at all relevant times, a registered nurse authorized to practice in the State of Ohio who was acting within the course and scope and in furtherance of his / her employment with Summa Health, Summa Health System, Summa Health System Corp., and / or Summa Physicians, Inc. and provided medical care and treatment to Ricky Napper while he was a patient of Summa Health System – Akron Campus aka Akron City Hospital.

16. This Court has jurisdiction over the Defendants. Among other reasons that this Court has jurisdiction, Defendants are, and at all relevant times were, corporations with their principal place of business in the State of Ohio or individuals who resided in the State of Ohio; Defendants purposefully availed themselves of the laws of the State of Ohio; and Defendants committed tortious acts within the State of Ohio.

17. Venue is appropriate in Summit County, Ohio pursuant to Ohio Civil Rule 3 because, among other reasons, the actions giving rise to this cause of action occurred in

Summit County, including decedent's death, and one or more of the Defendants reside in Summit County.

18. As a matter of law, SUMMA HEALTH and / or SUMMA HEALTH SYSTEM and / or SUMMA HEALTH SYSTEM CORP. and / or SUMMA PHYSICIANS, INC. are liable for any negligence in the medical care and treatment of Ricky Napper committed by their employees and / or agents while in the course and scope of their employment and / or agency, including the Defendants identified in this Complaint and any non-physician staff members, including numerous nursing staff members who provided care and service for Ricky Napper and whose nursing care and services are at issue.

19. As a matter of law, SUMMA HEALTH and / or SUMMA HEALTH SYSTEM and / or SUMMA HEALTH SYSTEM CORP. are liable for any negligence in the medical / nursing care and treatment of Ricky Napper committed by their employees and / or agents while in the course and scope of their employment and / or agency. Even if the individual medical providers identified in this Complaint were not employees of SUMMA HEALTH and / or SUMMA HEALTH SYSTEM and / or SUMMA HEALTH SYSTEM CORP. during the relevant time period, SUMMA HEALTH and / or SUMMA HEALTH SYSTEM and / or SUMMA HEALTH SYSTEM CORP. are liable for any negligence in the medical treatment and care of Ricky Napper under the theory of agency by estoppel pursuant to *Clark v. Southview Hosp. & Family Center*, 68 Ohio St.3d 435, 628 N.E.2d 46, because, among others bases: (1) SUMMA HEALTH and / or SUMMA HEALTH SYSTEM and / or SUMMA HEALTH SYSTEM CORP. held themselves out to the public as providers of medical services; (2) Plaintiff looked to SUMMA HEALTH and / or SUMMA HEALTH SYSTEM and / or SUMMA HEALTH SYSTEM CORP., as opposed to the individual medical providers, for medical treatment and services, and (3) Plaintiff

believed that the medical services she would receive at Akron City Hospital would be provided by SUMMA HEALTH and / or SUMMA HEALTH SYSTEM and / or SUMMA HEALTH SYSTEM CORP., their employees, or someone acting on their behalf.

20. In conformity with Ohio Civil Rule 10(D)(2), a motion for extension of time to file an affidavit of merit is being filed contemporaneous with this Complaint.

FIRST CLAIM FOR RELIEF
(Medical Malpractice)

21. Ricky Napper was a 61-year-old man who was married with two daughters. He was working in Ohio on a roofing job on June 1, 2018 when he fell from a height of between 10-20 injuries.

22. On June 1, 2018, EMS transported Ricky to the Akron City Hospital where he was stabilized and subsequently admitted under the trauma service where he diagnosed with a spinal cord injury, including central cord syndrome.

23. Ricky Napper remained a patient under the care of the trauma service until his discharge on June 14, 2018 to a rehabilitation center.

24. While a patient of Akron City Hospital, Ricky had subtle movement of some of his extremities and sensation remained in all four extremities; however, he was dependent on staff for all activities, including transfers, hygiene, and bed mobility.

25. While a patient at Akron City Hospital, Ricky Napper was at risk of developing skin breakdowns, including pressure sores, because he was bedbound and dependent on staff for all movement.

26. Akron City Hospital's physician and non-physician staff, including nurses, nursing assistants, and related caregivers, were responsible for ensuring that pressure was offloaded to prevent the skin breakdowns and the development of pressure sores.

27. Areas of bony prominence, such as heels, elbows, and the lower back (often called the sacrum or coccyx) are areas known to be at risk of skin breakdowns and pressure sores if appropriate care is not provided.

28. Akron City Hospital staff noted that on June 4, 2018, Ricky had a blister to his coccyx.

29. Akron City Hospital staff noted that on June 6, 2018, two small open areas were identified on Ricky when he was rolled over.

30. Akron City Hospital staff noted that on June 7, 2018, Ricky had a Stage I pressure sore to his sacrum.

31. On June 9, 2018, Akron City Hospital staff noted that Ricky had a Stage II pressure sore to sacrum that was 16cm x 14cm. See photo below.



Ricky Napper's sacral wound at Akron City Hospital. See Akron City Hospital (6/1/2018 – 6/14/2018) 000387.

32. Ricky Napper was unable to undergo successful or meaningful rehabilitation for his spinal cord injury because of the severe pressure sore to his lower back and buttocks, which ultimately became infected and required numerous surgical procedures.



33. Ricky's subsequent hospitalizations were dominated by treatment for the infected pressure sore he developed at Akron City Hospital.

34. Ricky died on July 20, 2018 at the age of 61 years.

35. The medical care and treatment of Ricky Napper by Defendants SUMMA HEALTH, SUMMA HEALTH SYSTEM, SUMMA HEALTH CORP., SUMMA PHYSICIANS, INC., NATHAN R. BLECKER, MD, JOSHUA E. NASH, DO, ERIC J. TURNEY, MD, ALEKSANDAR GEUBE, MD, VITALI AZOUZ, MD, MERIDITH GINESI, MD, HEATHER BAKER, APRN – CNP, JULIE A MCCARTNEY, APRN – CNP, CYNTHIA MCWORTER, RN and non-physician clinicians, including nurses, assistant and similar providers, fell below the appropriate standards of medical care and treatment required under the circumstances, including, but not limited to, the following acts and omissions:

- i. failing to take appropriate measures and provide appropriate treatment and / or planning to prevent the development of pressure sores;
- ii. failing to timely treat pressure sores once identified in accordance with the standard of care;
- iii. failing to maintain safe and sanitary environment to prevent the development of infections;
- iv. failing to inform of / explain the material risks and benefits of undergoing or foregoing additional treatment and failing to provide available treatment;
- v. failing to transfer their patient in a timely manner where additional treatment could be performed; and
- vi. otherwise failing to provide treatment consistent with the standard of care.

36. As a direct and proximate result of the above-described breaches of the standards of care, Ricky Napper experienced severe pain and suffering, physical disabilities, loss of enjoyment of life, death and other non-economic damages, incurred

medical and medical-related expenses, and other economic loss, all of which are permanent.

37. Defendants NATHAN R. BLECKER, MD, JOSHUA E. NASH, DO, ERIC J. TURNEY, MD, ALEKSANDAR GEUBE, MD, VITALI AZOUZ, MD, MERIDITH GINESI, MD, HEATHER BAKER, APRN – CNP, JULIE A MCCARTNEY, APRN – CNP, CYNTHIA MCWORTER, RN, and non-physician clinicians, as well as SUMMA HEALTH, SUMMA HEALTH SYSTEM, SUMMA HEALTH CORP., SUMMA PHYSICIANS, INC. consciously disregarded the rights and safety of Plaintiff's decedent with a great probability of causing substantial harm, which when disregarded did cause her to suffer substantial harm.

38. Defendants SUMMA HEALTH, SUMMA HEALTH SYSTEM, SUMMA HEALTH CORP., SUMMA PHYSICIANS, INC. authorized, knowingly participated in, or otherwise ratified the conduct described in the preceding paragraph by the individual Defendants.

39. **WHEREFORE**, Plaintiffs demand judgment against all Defendants, jointly and severally, in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00) to compensate Plaintiff for the above-stated injuries, plus costs, pre-judgment and post-judgment interest, punitive damages, attorney fees, and all other relief this Court finds just and equitable to compensate Plaintiff for the injuries and damages incurred.

SECOND CAUSE OF ACTION
(WRONGFUL DEATH)

40. Plaintiff incorporates all other paragraphs of this Complaint as if fully rewritten herein.

41. Plaintiff brings this Cause of Action pursuant to Ohio's Wrongful Death Statute for the benefit of Ricky Napper's heirs and next of kin who have suffered loss and damage due to his wrongful and untimely death

42. As a direct and proximate result of the negligence described above, Ricky Napper sustained physical injuries that caused his untimely and wrongful death.

43. Plaintiff and Ricky Napper's additional next-of-kin suffered damages as set forth in the Ohio Wrongful Death statute, including mental anguish and grief, medical and funeral expenses, and loss of decedent's support, services, society and companionship.

44. WHEREFORE, Plaintiff demands judgment against the Defendants, jointly, in an amount more than Twenty-Five Thousand Dollars (\$25,000.00) to compensate the decedent's next of kin and heirs at law, together with costs of suit, attorney's fees and expenses, exemplary damages, and any other relief the court finds is appropriate and/or equitable.

THIRD CAUSE OF ACTION
(LOSS OF CONSORTIUM)

45. Plaintiff incorporates all other paragraphs of this Complaint as if fully rewritten herein.

46. Rhonda Hays was the lawfully married spouse of Ricky Napper at all relevant times.

47. As a direct and proximate result of the negligent actions and inactions of Defendants, as well as their agents and employees, described above, Rhonda Hays suffered a loss of spousal consortium from the time of his injury through his death.

48. WHEREFORE, Plaintiff demands judgment against the Defendants, jointly, in an amount more than Twenty-Five Thousand Dollars (\$25,000.00) to compensate the Plaintiff, together with costs of suit, attorney's fees and expenses, exemplary damages, and any other relief the court finds is appropriate and/or equitable.

JURY DEMAND

A TRIAL BY JURY IS HEREBY REQUESTED.

/S/ Michael A. Hill

MICHAEL A. HILL (0088130)

WILLIAM B. EADIE (0085627)

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