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8 **SUPERIOR COURT OF THE STATE OF ARIZONA**

9 **IN AND FOR THE COUNTY OF PIMA**

10 **ESMERALDA O. TRIPP, by and through her**  
11 **Conservator, ROBERT B. FLEMING,**

12 **Plaintiff,**

13 **vs.**

14 **THE ARIZONA BOARD OF REGENTS;**  
15 **UNIVERSITY OF ARIZONA, COLLEGE OF**  
16 **MEDICINE; STATE OF ARIZONA, a**  
17 **governmental entity; THE UNIVERSITY OF**  
18 **ARIZONA HEALTH NETWORK, INC., an**  
19 **Arizona corporation; UNIVERSITY**  
20 **MEDICAL CENTER CORPORATION, an**  
21 **Arizona corporation; UNIVERSITY**  
22 **PHYSICIANS HEALTHCARE, an Arizona**  
23 **corporation; JOHN DOES I-X; JANE DOES**  
24 **I-X; BLACK CORPORATIONS I-X; and**  
25 **WHITE PARTNERSHIPS I-X,**

26 **Defendants.**

Case No.: C20150725

**FIRST AMENDED COMPLAINT**

(Tort: Non-Motor Vehicle;  
Medical Malpractice)

For her complaint against the Defendants, and each of them, Plaintiff alleges as follows:

...  
...  
...

1 I

2 Plaintiff Esmeralda O. Tripp is a resident of Pima County, Arizona. Robert B.  
3 Fleming was appointed Conservator for Esmeralda O. Tripp, on October 6, 2014, by Order of  
4 Judge Kyle Bryson, Pima County Superior Court.

5 II

6 This Court has jurisdiction over the subject matter under Arizona Constitution  
7 Article 6, Section 14.

8 III

9 Venue properly lies in this jurisdiction

10 IV

11 Defendant The Arizona Board of Regents (“ABOR”) is the governing board for  
12 Arizona’s public universities including the University of Arizona and the University of Arizona  
13 College of Medicine. Defendant ABOR at all relevant times was and is the employer and/or  
14 master of the physicians and other healthcare providers who attended to Esmeralda O. Tripp in  
15 September, 2013 and ABOR is vicariously liable for the conduct of these physicians and other  
16 healthcare providers who are the actual and/or ostensible agents, servants and/or employees of  
17 ABOR.

18 V

19 Defendant The State of Arizona is a governmental entity and at all relevant  
20 times was and is the employer and/or master of the physicians and other healthcare providers  
21 who attended to Esmeralda O. Tripp and provided diagnosis, care and treatment to her at  
22 University Medical Center in September, 2013 and Arizona is vicariously liable for the conduct  
23 of these physicians and other healthcare providers who are the actual and/or ostensible agents,  
24 servants and/or employees of the State of Arizona.

25 ...

26 ...

1 VI

2 Defendant The University of Arizona Health Network, Inc. ("UAHN") is an  
3 Arizona corporation in the business of providing hospital and healthcare services by way of  
4 multiple vehicles including the University of Arizona Medical Center. Defendant UAHN at all  
5 relevant times was and is the employer and/or master of the physicians and other healthcare  
6 providers who attended to Esmeralda O. Tripp and provided diagnosis, care and treatment to  
7 her at University Medical Center in September, 2013 and UAHN is vicariously liable for the  
8 conduct of these physicians and other healthcare providers who are the actual and/or ostensible  
9 agents, servants and/or employees of UAHN.

10 VII

11 Defendant University Medical Center Corporation ("UMCC") is an Arizona  
12 corporation in the business of providing hospital and healthcare services. At all relevant times,  
13 UMCC was and is the employer and/or master of the physicians and other healthcare providers  
14 who attended to Esmeralda O. Tripp and provided diagnosis, care and treatment to her at  
15 University Medical Center in September, 2013 and is vicariously liable for the conduct of these  
16 physicians and other healthcare providers who are the actual and/or ostensible agents, servants  
17 and/or employees of UMCC.

18 VIII

19 Defendant University Physicians Healthcare ("UPH") is an Arizona corporation  
20 in the business of providing healthcare services and operates the business through which  
21 members of the clinical faculty of the UA College of Medicine provide clinical services to  
22 patients. At all relevant times, UPH was and is the employer and/or master of the physicians  
23 and other healthcare providers who attended to Esmeralda O. Tripp and provided diagnosis,  
24 care and treatment to her at University Medical Center in September, 2013 and is vicariously  
25 liable for the conduct of these physicians and other healthcare providers who are the actual  
26 and/or ostensible agents, servants and/or employees of UPH.

IX

Defendants John Does I-X, Jane Does I-X, Black Corporations I-X and White Partnerships I-X are the officers, directors, agents, ostensible agents and/or employees of Defendants and their spouses, who at all times material hereto acted within the course and scope of their employment and/or agency relationship with Defendants and on behalf of and in furtherance of their respective marital communities; the true names and identities of these Defendants are not presently known to Plaintiffs, but Plaintiffs will seek leave of this Court to amend their Complaint to reflect the true names, together with the appropriate allegations concerning the conduct of each Defendant as it relates to their respective negligence in rendering healthcare individually or collectively as a principal, agent, ostensible agent, employee, administrator, manager or director of Defendants.

X

At all relevant times, the agents, servants and employees who provided healthcare services to Esmeralda O. Tripp at University Medical Center in Tucson were acting in the course and scope of their employment and agency with Defendants The State of Arizona, ABOR, UAHN, UMCC, and UPH.

XI

At all times material hereto, Defendants through their employees, servants, and agents, held themselves out to the public, and particularly to Plaintiffs and/or Esmeralda O. Tripp, to be healthcare providers capable of treating injuries, illnesses and conditions, including those of Esmeralda O. Tripp, and Defendants represented to the public and to Plaintiffs and/or Esmeralda O. Tripp that they were possessed of and exercised that degree of learning, skill, knowledge and diligence required of healthcare providers of their respective specialties in the State of Arizona.

XII

All acts complained of herein occurred in Pima County, Arizona.

1 XIII

2 The amount in controversy exceeds the minimum amount required for  
3 jurisdiction in this Court.

4 XIV

5 Beginning on September 13, 2013, Defendants provided medical care and  
6 treatment to Esmeralda O. Tripp. Defendants did so in a negligent manner and did not comply  
7 with the appropriate standard of care expected of reasonable, prudent healthcare providers in  
8 the profession or class to which Defendants belong, acting in the same or similar  
9 circumstances.

10 XV

11 As a direct and proximate result of the aforementioned acts of Defendants, and  
12 each of them, Esmeralda O. Tripp suffered severe and permanent injuries, including being in a  
13 persistent vegetative state.

14 XVI

15 As a further direct and proximate result of the aforementioned acts of  
16 Defendants, and each of them, Plaintiff Esmeralda O. Tripp has sustained, and will continue to  
17 sustain in the future, general damages in an amount to be proven at trial.

18 XVII

19 That as a further direct and proximate result of the acts of Defendants, and each  
20 of them, Plaintiff Esmeralda O. Tripp has sustained, and will sustain in the future, special  
21 damages in the amounts to be proven at the time of trial.

22 XVIII

23 On or about October 31, 2014, Plaintiff served Defendants UAHN, UMCC,  
24 UPH, ABOR and The State of Arizona with a Notice of Claim pursuant to A.R.S. Section 12-  
25 821.01.

26 ...

1 XIX

2 On or about October 31, 2014, Plaintiff personally served the designated  
3 statutory agents for ABOR and The State of Arizona with a Notice of Claim pursuant to A.R.S.  
4 Section 12-821.01.

5 XX

6 The required Notices of Claim were properly submitted and timely served and  
7 all statutory prerequisites to obtaining jurisdiction, pursuant to A.R.S. Section 12-821.01, have  
8 been met.

9 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of  
10 them, as follows:

- 11 1. For general damages in amounts to be proven at trial;
- 12 2. For past and future special damages in amounts to be proven at trial;
- 13 3. For costs incurred herein; and
- 14 4. For such other and further relief as the Court deems just and proper.

15 DATED this 28 day of February, 2015.

16 OSBORNE & KEENAN, P.C.

17  
18 By 

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