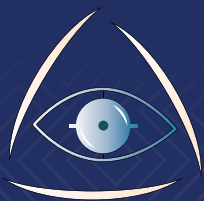


==New York State==
ACADEMY
OF TRIAL LAWYERS

How to Litigate a Medical
Malpractice Case – Part 3:
Commencing The Action

Materials By:
Andrew J. Smiley, Esq.



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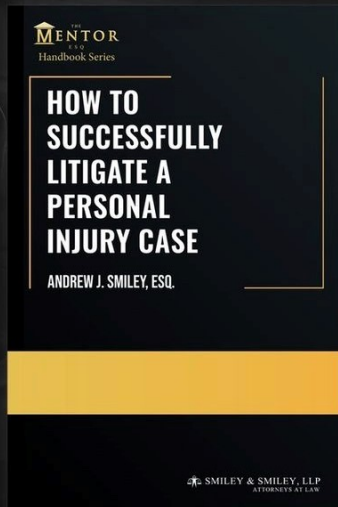




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Andrew J. Smiley, Esq.
Smiley & Smiley, LLP
122 East 42nd Street, NYC 10168
212.986.2022
asmiley@smileylaw.com
www.smileylaw.com
www.thementoresq.com

CURRICULUM VITAE

Education:

· Brooklyn Law School - Juris Doctorate 1996

Moot Court Honor Society - Vice President/Executive Board (Chair of Trial Division)
Moot Court Honor Society - Competitor - National Appellate Trademark Competition
Moot Court Honor Society – Coach, National Trial Team – Regional Champions
CALI Excellence For The Future Award - Advanced Legal Research
Judge Edward and Doris A. Thompson Award for Excellence in Trial Advocacy

· Tulane University, New Orleans, LA - Bachelor of Arts (Honors, Psychology) 1993

Professional:

· *Smiley & Smiley, LLP*

Managing Partner & Senior Trial Attorney, January 2001 - present

Associate, June 1996 - December 2000

Law Clerk, September 1993 - June 1996

Major verdicts and settlements in plaintiffs' personal injury, medical malpractice and wrongful death litigation

Andrew J. Smiley, Esq. Curriculum Vitae, Page 2

· *Adjunct Clinical Instructor of Law - Brooklyn Law School, Trial Advocacy Program (1998-2004)*

· *The Mentor Esq. Podcast – A Podcast for Lawyers*

- Founder & Host (2019 – Present)

· *New York “Super Lawyer”*

2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022

Bar Admissions:

- The United States Supreme Court
- New York State Courts
- United States Eastern District, Southern District & Northern District of New York
- United State District Court of Vermont

Organizations/Affiliations:

· New York State Academy of Trial Lawyers

- Immediate Past President (May 2018- May 2019)
- President (May 2017 – May 2018)
- President-Elect – (April 2016- May 2017)
- Vice President – 1st Dept. (July 2013-May 2016)
- Executive Committee (May 2019 – present)
- Board of Directors (2013- present)
- Judicial Screening Committee (2013- present)
- Master CLE Instructor (2020 – present)
- CLE Instructor (2013 – present)

· New York City Trial Lawyers Alliance

- Chairman of Board of Governors (July 2017 – July 2019)
- President (July 2015 – July 2017)
- Vice President (June 2013 – July 2015)
- Treasurer (June 2011 – June 2013)
- Secretary (June 2009- June 2011)
- Board of Directors (2000-present)

- Judicial Screening Committee, Kings County Democratic Party (2013)
- New York State Bar Association
- Brooklyn Bar Association
 - Medical Malpractice Committee
 - Supreme Courts Committee
- American Bar Association
- The American Association for Justice

Andrew J. Smiley, Esq. Curriculum Vitae, Page 3

- Brooklyn Law School Alumni Association
- National Order of Barristers
- Porsche Club of America (Connecticut Valley Region)
- Porsche Sim Racing League
- Sports Car Driving Association (SCDA)
- Just Hands Racing Foundation – Board of Directors

Publications

Smiley, Andrew J. *How to Successfully Litigate a Personal Injury Case – A Practical Guide* (2022, The Mentor Esq. Handbook Series – Available on Amazon)

Continuing Legal Education (CLE) Presentations:

(58) *How to Litigate a Construction Accident Case – Part 4: Motion Practice*, New York State Academy of Trial Lawyers, December 7, 2022

(57) *Preparing for Depositions: Best Practices for Asking and Answering Questions*, Office of The NYS Attorney General, Legislature, 2022 Legislature Program, December 6, 2022

(56) *How to Litigate a Construction Accident Case – Part 3: Depositions*, New York State Academy of Trial Lawyers, November 2, 2022

(55) *How to Litigate a Construction Accident Case – Part 2: Commencing The Action*, New York State Academy of Trial Lawyers, October 3, 2022

(54) *Trial Series: Part 2 - Opening Statement Webinar*, Queens County Bar Association, September 22, 2022

(53) *How to Litigate a Construction Accident Case – Part 1: An Overview of New York Labor Law*, New York State Academy of Trial Lawyers, September 7, 2022

(52) *How to Litigate a Catastrophic Automobile Accident Case – Part 6: The Trial*, New York State Academy of Trial Lawyers, July 6, 2022

(51) *How to Litigate a Catastrophic Automobile Accident Case – Part 5: Mediation and Settlement*, New York State Academy of Trial Lawyers, June 2, 2022

(50) *How to Litigate a Catastrophic Automobile Accident Case – Part 4: Expert Depositions*, New York State Academy of Trial Lawyers, May 4, 2022

(49) *How to Litigate a Catastrophic Automobile Accident Case – Part 3: Liability and Damages Experts*, New York State Academy of Trial Lawyers, April 6, 2022

(48) *How to Litigate a Catastrophic Automobile Accident Case – Part 2: Commencing the Action*, New York State Academy of Trial Lawyers, March 2, 2022

Andrew J. Smiley, Esq. Curriculum Vitae, Page 4

Continuing Legal Education (CLE) Presentations Continued:

(47) *How to Litigate a Catastrophic Automobile Accident Case – Part 1: The Investigation*, New York State Academy of Trial Lawyers, February 4, 2022

(46) *Anatomy of a Trial, a Trial Skills Series – Part 5: Summations*, New York State Academy of Trial Lawyers, January 5, 2022

(45) *Anatomy of a Trial, a Trial Skills Series – Part 4: Cross-Examination*, New York State Academy of Trial Lawyers, December 1, 2021

(44) *Anatomy of a Trial, a Trial Skills Series – Part 3: Direct Examination*, New York State Academy of Trial Lawyers, November 3, 2021

(43) *Anatomy of a Trial, a Trial Skills Series – Part 2: Opening Statements*, New York State Academy of Trial Lawyers, October 6, 2021

(42) *Anatomy of a Trial, a Trial Skills Series – Part 1: Jury Selection*, New York State Academy of Trial Lawyers, September 10, 2021

(41) *How to Successfully Litigate a Personal Injury Case Series - Part 7: It's a Wrap!*, New York State Academy of Trial Lawyers, July 7, 2021

(40) *How to Successfully Litigate a Personal Injury Case Series - Part 6: The Trial*, New York State Academy of Trial Lawyers, June 2, 2021

(39) *How to Successfully Litigate a Personal Injury Case Series - Part 5: Pre-Trial Disclosures and Gearing up for Trial*, New York State Academy of Trial Lawyers, May 5, 2021

(38) *How to Successfully Litigate a Personal Injury Case Series - Part 4: Depositions*, New York State Academy of Trial Lawyers, April 7, 2021

(37) *How to Successfully Litigate a Personal Injury Case Series - Part 3: Your Adversary, the Preliminary Conference and Initial Discovery*, New York State Academy of Trial Lawyers, March 3, 2021

(36) *How to Successfully Litigate a Personal Injury Case Series - Part 2: Early Settlement, Jurisdiction, Venue & Commencing The Lawsuit*, New York State Academy of Trial Lawyers, February 3, 2021

(35) *How to Successfully Litigate a Personal Injury Case Series - Part 1: Getting the Case, Investigation and Ready to File*, New York State Academy of Trial Lawyers, January 6, 2021

(34) *Brick by Brick: Building a Personal Injury Practice*, New York State Academy of Trial Lawyers, December 10, 2020

(33) *Working with Experts to Build Your Case*, New York State Academy of Trial Lawyers, October 8, 2020

Andrew J. Smiley, Esq. Curriculum Vitae, Page 5

Continuing Legal Education (CLE) Presentations Continued:

(32) *Fitness Industry Liability: Gyms, Trainers and Waivers*, The Mentor Esq. Podcast, September 8, 2020

(31) *Let's Make a Federal Case Out of It: Litigating Personal Injury Cases in Federal Court*, New York State Academy of Trial Lawyers, June 9, 2020

(30) *Crisis Management - The Corona Virus Pandemic*, The Mentor Esq. Podcast, April 9, 2020

(29) *Do You Have a Federal Tort Claims Act Case in Your Office*, New York State Academy of Trial Lawyers, December 10, 2019

(28) *Auto and Truck Claims, Accidents and Litigation 2019 – Evaluating Damages and Use of Experts*, New York State Bar Association, September 9, 2019

(27) *Thoughts and Strategies in the Ever-Evolving Product Liability Litigation – The Plaintiff's Perspective*, The Defense Association of New York, March 12, 2019

(26) *Trial Techniques: Lessons on Dealing with Millennial Jurors; Summations; Requests to Charge and Post-Trial Motions*, The Defense Association of New York, January 31, 2019

(25) *Trial Techniques: Interactive Lessons from the Plaintiff and Defense Perspectives*, The Defense Association of New York, September 17, 2018

(24) *Punitive Damages – What to Plead, What to Prove: Medical Malpractice*, New York State Academy of Trial Lawyers, June 8, 2017 & June 21, 2017

(23) *Presenter on Evidence, 2016 Annual Update, Precedents & Statutes for Personal Injury Litigators*, New York State Academy of Trial Lawyers, September 30, 2016

(22) *Medical Malpractice in New York: A View from All Sides: The Bench, The Bar and OCA*, New York State Bar Association, October 11, 2015

(21) *Effectively Using Experts in Personal Injury Cases*, Lawline, October 8, 2015

(20) *Killer Cross Examination Strategies*, Clear Law Institute, April 21, 2015

(19) *Powerful Opening Statements*, Clear Law Institute, January 13, 2015

(18) *The Dram Shop Law: New York Liquor Liability*, Lawline.com, November 20, 2014

(17) *Killer Cross Examination Strategies*, Lawline.com, November 20, 2014

(16) *Trial Techniques: Tricks of the Trade Update*, Lawline.com, October 14, 2014

(15) *Personal Trainer Negligence Update*, Lawline.com, October 14, 2014

Andrew J. Smiley, Esq. Curriculum Vitae, Page 6

Continuing Legal Education (CLE) Presentations Continued:

(14) *Trial Techniques – Part 2: Cross- Examination & Closing Arguments*, Brooklyn Bar Association, May 15, 2014

(13) *Trial Techniques – Part 1: Jury Selection, Opening Statements & Direct Examination*, Brooklyn Bar Association, May 7, 2014

(12) *Health, Fitness & Adventure Sports Liability*, New York State Bar Association, August 1, 2013

(11) *Direct Exams: How To Make Your Witnesses Shine*, New York State Academy of Trial Lawyers, May 6, 2013

(10) *Opening Statements: A Recipe for Success*, Lawline.com, August 7, 2012

(9) *“You Had Me at Hello”: Delivering an Effective and Powerful Opening Statement*, New York State Academy of Trial Lawyers, April 1, 2012

(8) *Preparing the Construction Accident Case*, New York County Lawyers Association, March 26, 2012

(7) *The Nuts and Bolts of a Trial*, New York State Academy of Trial Lawyers, October 24, 2011

(6) *Personal Trainer Negligence*, Lawline.com, March 22, 2011

(5) *Trial Effectively Using Experts in Personal Injury Cases*, Lawline.com, May 4, 2011
Techniques: The Tricks of the Trade, Lawline.com, February 16, 2011

(4) *Practice Makes Perfect: Learn to Practice Like a Pro*, Lawline.com, January 18, 2011

(3) *Jury Selection 101*, New York State Academy of Trial Lawyers, December 14, 2010

(2) *Practical Guidelines for Getting Items into Evidence*, Lawline.com, March, 2010

(1) *Winning Your Case: Trial Skills that Count*, Lawline.com, August 21, 2009

Television Appearances – Legal Commentary:

Fox News Channel

- The O'Reilly Factor
- What's Happening Now with Martha McCallum
- America's News Room
- Fox & Friends
- Fox Business Channel
- Neil Cavuto

Andrew J. Smiley, Esq. Curriculum Vitae, Page 7

-Money with Melissa Francis

CNN -Anderson Cooper 360

ET – Entertainment Tonight

Bloomberg TV

Headline News

Tru TV

Court TV

The Morning Show with Mike and Juliet

Interests, Hobbies:

Porsche Club, High Performance Driving Events, Sim Racing, Tennis, Yoga, Cooking

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Index No.: [REDACTED] 2020

Filed: 3/11/20

-----x
[REDACTED], individually and as Administrator
of the Estate of [REDACTED], deceased,

Plaintiff,

Plaintiff designates
NEW YORK County as
the place of trial.

-against-

S U M M O N S

[REDACTED], M.D., [REDACTED], R.N.,
[REDACTED],
[REDACTED], M.D.,
[REDACTED], M.D., and [REDACTED]
[REDACTED]

The basis of venue is:
Defendants' principal
place of business

Defendants.

-----x
To the above named Defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the plaintiff's attorneys within 20 days after the service of this summons, exclusive of the day of service of this summons, or within 30 days after service of this summons is complete if this summons is not personally delivered to you within the State of New York.

In case of your failure to answer this summons, a judgment by default will be taken against you for the relief demanded in the complaint, together with the costs of this action.

Dated: New York, New York
March 10, 2020

SMILEY & SMILEY, LLP

By: 

ANDREW J. SMILEY

Attorneys for Plaintiff
122 East 42nd Street, Suite 3900
New York, New York 10168
(212) 986-2022

Defendants:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Index No.:

2020

-----X
[REDACTED], individually and as Administrator of
the Estate of [REDACTED], deceased,

Plaintiff,

**VERIFIED
COMPLAINT**

-against-

[REDACTED], M.D., [REDACTED] R.N.,
[REDACTED],
M.D., [REDACTED], M.D., [REDACTED]
[REDACTED] M.D., and [REDACTED]
HOSPITAL

Defendants.
-----X

Plaintiff, [REDACTED], individually and as Administrator of the Estate of
[REDACTED], deceased, by her attorneys, SMILEY & SMILEY, LLP, complaining of the
defendants, [REDACTED]

[REDACTED]
M.D.; and [REDACTED] HOSPITAL, hereinafter alleges upon information and
belief, and at all times relevant hereto as follows:

**AS AND FOR A FIRST CAUSE OF ACTION
AGAINST [REDACTED], M.D., [REDACTED], R.N.
AND [REDACTED]**

1. On January 20, 2019, [REDACTED] died.
2. The decedent left surviving his wife, [REDACTED], the
plaintiff/administrator herein; his mother, a son and daughter.
3. Plaintiff, [REDACTED], resides at [REDACTED] Rosedale, New York
11422.

4. On October 9, 2019, Letters of Administration were issued and granted to the plaintiff, [REDACTED], by the Honorable Peter J. Kelly, Surrogate of the County of Queens, State of New York.

5. Defendant, [REDACTED], M.D., (hereinafter referred to as "[REDACTED]") was and still is a physician licensed to practice medicine in the State of New York, with a principal place of business located at [REDACTED]

6. Defendant, [REDACTED], represented that she was competent to perform and render all medical care, treatment, services and advice required by the plaintiff's decedent, [REDACTED]

7. Defendant, [REDACTED], was an employee of defendant, [REDACTED], [REDACTED].

8. Defendant, [REDACTED], was an agent of defendant, [REDACTED], [REDACTED].

9. Defendant, [REDACTED], R.N. (hereinafter referred to as "[REDACTED]") was and still is a nurse anesthetist licensed to practice medicine in the State of New York, with a principal place of business located at [REDACTED]

10. Defendant, [REDACTED], represented that she was competent to perform and render all medical care, treatment, services and advice required by the plaintiff's decedent, [REDACTED], [REDACTED].

11. Defendant, [REDACTED], was an employee of defendant, [REDACTED], [REDACTED], [REDACTED].

12. Defendant, [REDACTED], was an agent of defendant, [REDACTED], [REDACTED].

13. Defendant, [REDACTED], (hereinafter [REDACTED]), was and still is a proprietary hospital, duly organized and existing under and by virtue of the laws of the State of New York with a principal place of business located at [REDACTED]
[REDACTED]

14. Defendant, [REDACTED], supervised and controlled a staff located at [REDACTED]
[REDACTED]

15. Defendant, [REDACTED] supervised and controlled defendant, [REDACTED]

16. Defendant, [REDACTED], supervised and controlled defendant, [REDACTED].

17. Defendant, [REDACTED], represented itself to the public and the plaintiff's decedent as being skilled, equipped and duly qualified to treat and care for those in need of medical attention/treatment and that the doctors, and other personnel associated and/or employed by the defendant were duly skilled, qualified and able to provide medical care, treatment and services.

18. On or about January 10, 2019 the plaintiff's decedent, [REDACTED], came under the medical care and treatment of the defendants, [REDACTED]

19. It was the duty of defendants, [REDACTED] to care for and treat plaintiff's decedent in accordance with good and accepted medical practice and standards.

20. Defendants, [REDACTED] were negligent and guilty of medical malpractice in failing and neglecting to render proper and adequate medical care and treatment to plaintiff's decedent [REDACTED] in failing to properly pre-operatively evaluate said patient; in failing to use the appropriate spinal block and anesthesia; in prematurely administering a spinal block with Mepivacaine when the defendants knew or should have known that the surgery was going to be delayed; in failing to timely commence surgery; in permitting the spinal block to wear off while the patient was still undergoing surgery; in improperly converting to general anesthesia

via a laryngeal mask airway (LMA); in improperly and negligently removing the LMA resulting in an immediate obstruction of the airway of the patient; in failing to obtain appropriate oxygen saturation to the patient; in causing the patient to sustain reverse pressure pulmonary edema; in improperly administering Mepivacaine for this type of surgery; in rendering care contrary to the accepted standards of medical care and treatment existing in the community and elsewhere; and being careless and negligent in their medical care and treatment of plaintiff's decedent, [REDACTED]

21. By reason of the foregoing, plaintiff's decedent, [REDACTED] sustained severe and permanent injuries resulting in his death on January 20, 2019, following a period of extended conscious pain and suffering, including but not limited to, fear of impending death.

22. All of the foregoing was caused solely by reason of the negligence and malpractice of the defendants herein; and the plaintiff's decedent, [REDACTED], in no way contributed to same.

23. The amount of damages sought in this action exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION
AGAINST [REDACTED] M.D., [REDACTED] R.N.
[REDACTED]**

24. By reason of the severe and serious injuries sustained by plaintiff's decedent as a result of the aforesaid occurrence, plaintiff's decedent died on January 20, 2019.

25. By reason of the foregoing, funeral, medical and other expenses were incurred, as well as loss of inheritance and loss of parental guidance.

26. Plaintiff has suffered pecuniary losses as a result of the foregoing occurrence and wrongful death of the decedent.

27. The amount of damages sought in this action exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A THIRD CAUSE OF ACTION
AGAINST [REDACTED], M.D., [REDACTED], R.N.**

28. Plaintiff, [REDACTED], was the wife of the decedent, [REDACTED] and as such wife lived and cohabited with the decedent, [REDACTED], her husband.

29. By reason of the foregoing, plaintiff, [REDACTED], has been deprived of the services, society, companionship and consortium of her husband.

30. The amount of damages sought in this action exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A FOURTH CAUSE OF ACTION
AS AGAINST [REDACTED], M.D., [REDACTED]
[REDACTED], M.D., [REDACTED], M.D. AND
[REDACTED]**

31. Defendant, [REDACTED], (hereinafter referred to as "[REDACTED]") was and still is a physician licensed to practice medicine in the State of New York, with a principal place of business located at [REDACTED]

32. Defendant, [REDACTED] represented that he was competent to perform and render all medical care, treatment, services and advice required by the plaintiff's decedent, [REDACTED]
[REDACTED]

33. Defendant, [REDACTED] was an employee of defendant, [REDACTED]
[REDACTED]

34. Defendant, [REDACTED], was an agent of defendant, [REDACTED]
[REDACTED].

35. Defendant, [REDACTED], M.D., (hereinafter referred to as "[REDACTED]") was and still is a physician licensed to practice medicine in the State of New York, with a principal place of business located at [REDACTED]

36. Defendant, [REDACTED], represented that she was competent to perform and render all medical care, treatment, services and advice required by the plaintiff's decedent, [REDACTED].

37. Defendant, [REDACTED] was an employee of defendant, [REDACTED].

38. Defendant, [REDACTED], was an agent of defendant, [REDACTED].

39. Defendant, [REDACTED], M.D., (hereinafter referred to as "[REDACTED]") was and still is a physician licensed to practice medicine in the State of New York, with a principal place of business located at [REDACTED]

40. Defendant, [REDACTED], represented that she was competent to perform and render all medical care, treatment, services and advice required by the plaintiff's decedent, [REDACTED].

41. Defendant, [REDACTED], was an employee of defendant, [REDACTED].

42. Defendant, [REDACTED], was an agent of defendant, [REDACTED].

43. Defendant, [REDACTED], (hereinafter "[REDACTED]"), was and still is a proprietary hospital, duly organized and existing under and by virtue of the laws

of the State of New York with a principal place of business located at [REDACTED]

44. Defendant, [REDACTED], supervised and controlled a staff located at [REDACTED]

45. Defendant, [REDACTED], supervised and controlled defendant, [REDACTED].

46. Defendant, [REDACTED], supervised and controlled defendant, [REDACTED].

47. Defendant, [REDACTED], supervised and controlled defendant, [REDACTED].

48. Defendant, [REDACTED], represented itself to the public and the plaintiff's decedent as being skilled, equipped and duly qualified to treat and care for those in need of medical attention/treatment and that the doctors, and other personnel associated and/or employed by the defendant, were duly skilled, qualified and able to provide medical care, treatment and services.

49. On or about January 11, 2019, plaintiff's decedent, [REDACTED], came under the medical care and treatment of defendants, [REDACTED].

50. It was the duty of defendants, [REDACTED] to care for and treat plaintiff's decedent in accordance with good and accepted medical practice and standards.

51. Defendants, [REDACTED] were negligent and guilty of medical malpractice in failing and neglecting to render proper and adequate medical care and treatment to plaintiff's decedent [REDACTED]; in administering Propofol even after the patient developed Propofol infusion syndrome; in permitting the development of Propofol infusion syndrome; in failing to timely determine the presence of Propofol infusion syndrome; in re-initiating Propofol subsequently after determining a suspicion of the existence of Propofol infusion syndrome in the patient; in failing to immediately discontinue Propofol infusion and initiate

supportive management, including hemodialysis, hemodynamic support and extra corporeal membrane oxygenation; in rendering care contrary to the accepted standards of medical care and treatment existing in the community and elsewhere; and being careless and negligent in their medical care and treatment of plaintiff's decedent, [REDACTED].

52. By reason of the foregoing, plaintiff's decedent, [REDACTED] sustained severe and permanent injuries resulting in his death on January 20, 2019, following a period of extended conscious pain and suffering, including but not limited to, fear of impending death.

53. All of the foregoing was caused solely by reason of the negligence and malpractice of the defendants herein, and the plaintiff's decedent, [REDACTED] in no way contributed to same.

54. The amount of damages sought in this action exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A FIFTH CAUSE OF ACTION
AS AGAINST [REDACTED], M.D., [REDACTED]
[REDACTED], M.D., [REDACTED], M.D. AND
[REDACTED]**

55. By reason of the severe and serious injuries sustained by plaintiff's decedent as a result of the aforesaid occurrence, plaintiff's decedent died on January 20, 2019.

56. By reason of the foregoing, funeral, medical and other expenses were incurred, as well as loss of inheritance and loss of parental guidance.

57. Plaintiff has suffered pecuniary losses as a result of the foregoing occurrence and wrongful death of the decedent.

58. The amount of damages sought in this action exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SIXTH CAUSE OF ACTION
AS AGAINST [REDACTED]

59. Plaintiff, [REDACTED], was the wife of the decedent, [REDACTED]
and as such wife lived and cohabited with the decedent, [REDACTED], her husband.

60. By reason of the foregoing, plaintiff, [REDACTED], has been deprived of
the services, society, companionship and consortium of her husband.

61. The amount of damages sought in this action exceeds the jurisdictional limits of all
lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment against the defendants, [REDACTED]
[REDACTED], on the First,
Second and Third Causes of Action; against the defendants, [REDACTED]
[REDACTED]
[REDACTED] on the Fourth, Fifth and Sixth Causes of Action; together with interest and the
appropriate costs and disbursements of these actions.

Dated: New York, New York
March 10, 2020

Yours, etc.,

SMILEY & SMILEY, LLP

By: 

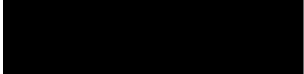
ANDREW J. SMILEY

Attorneys for Plaintiff

122 East 42nd Street, Suite 3900
New York, New York 10168
(212) 986-2022

INDIVIDUAL VERIFICATION

STATE OF NEW YORK)
) SS:
COUNTY OF *New York*)

, being duly sworn say that I am the plaintiff in the action herein, I have read the annexed **COMPLAINT** and know the contents thereof; that the same is true of my own knowledge, except matters alleged upon information and belief, and that as to those matters, I believe them to be true.

Dated: New York, New York




Sworn to before me this
10th day of *March*, 2020


NOTARY PUBLIC

MADLYN I. SOLIVAN
Commissioner of Deeds
City of New York - No. 5-1071
Certificate Filed in New York County
Commission Expires *10/1/21*



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Index No.:

2020

-----X
[REDACTED] individually and as Administrator
of the Estate of [REDACTED] deceased,

Plaintiff,

-against-

**CERTIFICATE
OF MERIT**

[REDACTED]
Defendants.
-----X

ANDREW J. SMILEY, an attorney duly admitted to practice before the Courts of this State, certifies the following:

1. I am the attorney for the plaintiff, [REDACTED] individually and as Administrator of the Estate of [REDACTED], deceased.
2. I have reviewed the facts of this case and have consulted with a physician duly licensed to practice medicine in the State of New York and reasonably believe that said physician is knowledgeable with respect to the relevant issues involved in this action.
3. Based upon the discussions I had with the aforesaid physician, I have concluded on the basis of my review and consultation, that there is a reasonable basis for the commencement of this action.

Dated: New York, New York
March 10, 2020


ANDREW J. SMILEY

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
[REDACTED] and as Administrator
deceased,

Plaintiff/Petitioner,

- against -
[REDACTED]

Index No. [REDACTED]

/2020

Defendant/Respondent.
-----X

**NOTICE OF ELECTRONIC FILING
(Mandatory Case)
(Uniform Rule § 202.5-bb)**

You have received this Notice because:

- 1) The Plaintiff/Petitioner, whose name is listed above, has filed this case using the New York State Courts E-filing system ("NYSCEF"), and
- 2) You are a Defendant/Respondent (a party) in this case.

● **If you are represented by an attorney:**

Give this Notice to your attorney. (Attorneys: see "Information for Attorneys" pg. 2).

● **If you are not represented by an attorney:**

You will be served with all documents in paper and you must serve and file your documents in paper, unless you choose to participate in e-filing.

If you choose to participate in e-filing, you must have access to a computer and a scanner or other device to convert documents into electronic format, a connection to the internet, and an e-mail address to receive service of documents.

The benefits of participating in e-filing include:

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To register for e-filing or for more information about how e-filing works:

- visit: www.nycourts.gov/efile-unrepresented or
- contact the Clerk's Office or Help Center at the court where the case was filed. Court contact information can be found at www.nycourts.gov

To find legal information to help you represent yourself visit www.nycourthelp.gov

**Information for Attorneys
(E-filing is Mandatory for Attorneys)**

An attorney representing a party who is served with this notice must either:

- 1) immediately record his or her representation within the e-filed matter on the NYSCEF site www.nycourts.gov/efile ; or
- 2) file the Notice of Opt-Out form with the clerk of the court where this action is pending and serve on all parties. Exemptions from mandatory e-filing are limited to attorneys who certify in good faith that they lack the computer hardware and/or scanner and/or internet connection or that they lack (along with all employees subject to their direction) the knowledge to operate such equipment. [Section 202.5-bb(e)]

For additional information about electronic filing and to create a NYSCEF account, visit the NYSCEF website at www.nycourts.gov/efile or contact the NYSCEF Resource Center (phone: 646-386-3033; e-mail: nyscef@nycourts.gov).

Dated: March 10, 2020

Jason D. Friedman

Name

SMILEY & SMILEY, LLP

Firm Name

122 East 42nd Street, Suite 3900

New York, New York 10168

Address

(212) 986-2022

Phone

jfriedman@smileylaw.com

E-Mail

To:

[REDACTED] M.D.
[REDACTED] P.N.
[REDACTED]

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