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MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT, GALLATIN COUNTY

NANCY C. BEEBE, individually and
as the Personal Representative of the
ESTATE OF MICHAEL A. BEEBE,
deceased; and FERGUS BEEBE,

Plaintiffs,

v.

BOZEMAN DEACONESS HEALTH
SERVICES, INC., d/b/a Bozeman Deaconess
Hospital, Bozeman Deaconess Health
Services, Bozeman Deaconess Health Group,
Bozeman Deaconess Internal Medicine
Associates, and Bozeman Deaconess
Rheumatology; MICHAEL VLASES, M.D.;
MARK WINTON, M.D.; JOHN McCAHAN,
M.D.; TIMOTHY O'BRIEN, M.D.; ALPINE
ORTHOPEDICS AND SPORTS
MEDICINE, P.C.; LIVINGSTON
HEALTHCARE, d/b/a Livingston Memorial
Hospital and Livingston Healthcare Home
Care; JOHN/JANE DOE DEFENDANTS
1-10; and XYZ CORPS. 1-10,

Defendants.

Cause No. DV-14-112A
Hon. Holly Brown

COMPLAINT and
DEMAND FOR JURY TRIAL

(ϕ) *Summons Issued*

Plaintiffs Nancy C. Beebe, individually and as the Personal Representative of the Estate of Michael Beebe, deceased, and Fergus Beebe, by and through counsel, state their cause of action and claims for relief as follows:

INTRODUCTION

1. This is an action for negligence and wrongful death related to the untimely death of Michael A. Beebe following a knee replacement surgery at Bozeman Deaconess Hospital, and for declaratory judgment as to the constitutionality of § 25-9-411, MCA.

PARTIES

2. Michael A. Beebe ("Michael") died on April 22, 2012, while a patient at the Bozeman Deaconess Hospital.

3. Plaintiff Nancy C. Beebe ("Nancy") brings this action in her individual capacity as Michael's surviving spouse, and also brings survivor claims on behalf of Michael's estate as its Personal Representative.

4. Plaintiff Fergus Beebe ("Fergus") is Michael's son.

5. Defendant Bozeman Deaconess Health Services, Inc. is a Montana corporation which does business in the state of Montana under several names and through various sub-entities, including: Bozeman Deaconess Hospital, Bozeman Deaconess Health Services, Bozeman Deaconess Health Group, Bozeman Deaconess Internal Medicine Associates, and Bozeman Deaconess Rheumatology (collectively referred to herein as "BDH"). BDH, by and through its employees and sub-entities, performed Michael's knee surgery and provided follow-up care leading up to his death.

6. Defendant Michael Vlases, M.D., is an internal medicine specialist who provided care or otherwise attended to Michael following his knee surgery. Upon information and belief, he is and has been an agent and/or employee of BDH, and acted

within the scope of that relationship at all times relevant to this action.

7. Defendant Mark Winton, M.D., is an internal medicine and infectious disease specialist who provided care or otherwise attended to Michael following his knee surgery. Upon information and belief, he is and has been an agent and/or employee of BDH, and acted within the scope of that relationship at all times relevant to this action.

8. Defendant John McCahan, M.D., is an internal medicine specialist who provided care or otherwise attended to Michael following his knee surgery. Upon information and belief, he is and has been an agent and/or employee of BDH, and acted within the scope of that relationship at all times relevant to this action.

9. Defendant Timothy O'Brien, M.D., is an orthopedic surgeon who provided care or otherwise attended to Michael following his knee surgery. Upon information and belief, he is and has been an agent and/or employee of BDH and Alpine Orthopedics and Sports Medicine, P.C., and acted within the scope of those relationships at all times relevant to this action.

10. Defendant Alpine Orthopedics and Sports Medicine, P.C. ("AOSM"), is a medical practice which specializes in orthopedic care. It is a Montana corporation which does business in the state of Montana. Dr. O'Brien is a member of the practice, and upon information and belief, AOSM employs or employed an as-yet unidentified physician assistant who was also involved in Michael's care.

11. Defendant Livingston Healthcare is a Montana corporation which does business in the state of Montana as the Livingston Memorial Hospital and Livingston Healthcare Home Care (collectively referred to herein as "Livingston Healthcare"), which provided home nursing care and physical therapy to Michael following his knee surgery.

12. Defendants John/Jane Does 1-10 and XYZ Corps. 1-10 are people or entities,

presently unknown or unidentified, who participated or contributed to the wrongful actions and injuries described herein, and who will be named in an amended pleading when their identities and/or wrongful acts become known. These defendants may include, but are not limited to: other healthcare providers; employees and/or sub-entities of the named Defendant organizations; and doctors, nurses, physician assistants, or other caregivers who provided care to Michael. Plaintiffs anticipate that John Doe No. 1 will be identified as a physician assistant employed by Defendant AOSM (referred to herein as "John Doe P.A.").

JURISDICTION AND VENUE

13. This Court has original jurisdiction over the subject matter of this action pursuant to §§ 3-5-302(b)-(c) and 27-6-701, MCA.

14. The defendants are personally subject to this Court's jurisdiction because they are found within the state of Montana, as well as under Rule 4(b)(1)(B), M.R.Civ.P., because they, or their agents or employees, are alleged to have committed tortious acts within the state of Montana.

15. Venue is proper pursuant to §§ 25-2-118 and 25-2-122, MCA.

FACTS AND GENERAL ALLEGATIONS

16. As of early 2012, Michael Beebe was a 51 year-old ranch manager who lived with his wife, Nancy, and their son, Fergus (then 16 years old), in Clyde Park, Montana, a small town north of Livingston.

17. On April 11, 2012, Michael underwent a total knee replacement surgery, which was performed by Mark Deibert, M.D., at BDH.

18. Michael was discharged from the hospital and returned home on April 13, 2012. Defendant Livingston Healthcare provided in-home nursing care and physical therapy to Michael from April 14 through April 21, 2012.

19. Around April 17, 2012, Michael began to exhibit signs and symptoms of post-operative infection. The home healthcare nurses and physical therapist employed by Livingston Healthcare failed to recognize the infection and did not instruct Michael to immediately go to the hospital.

20. Michael and Nancy contacted Dr. Deibert's physician assistant, John Doe, P.A., an employee of Defendant AOSM, on or around April 20, 2012 to report Michael's worsening condition. Doe failed to instruct Michael to immediately go to the emergency room for evaluation.

21. Michael's condition continued to worsen until April 21, 2012, when his discomfort forced him to go to the emergency room at BDH.

22. Michael was admitted to the hospital and evaluated by Defendant Michael Vlases, M.D. Upon information and belief, Dr. Vlases failed to properly identify, diagnose and treat Michael's post-operative infection, failed to properly examine Michael's surgical wound, failed to timely obtain necessary consults with appropriate specialists, failed to timely respond to nurses' request to transfer Michael to the I.C.U., and failed to order charting of intake and output of fluids.

23. Upon information and belief, BDH nursing staff and other caregivers attended to Michael from April 21 through April 22, 2012, and during that time failed to properly monitor Michael's worsening condition, failed to chart his fluid intake and output, failed to make contemporaneous chart notes, failed to timely report his worsening condition to attending physicians, and failed to utilize the chain of command to access the medical knowledge and resources at their disposal and obtain necessary and lifesaving treatment for Michael.

24. Dr. Vlases called Defendant Mark Winton, M.D., on April 21, 2012 to perform an infectious disease consult on Michael. Upon information and belief, Dr. Winton failed to inspect Michael's post-operative wound, failed to properly diagnose the obvious origin of the infection, and failed to advise Dr. Vlases that Michael required an immediate orthopedic consult.

25. Dr. Vlases called Defendant John McCahan, M.D., on April 22, 2012 to perform a rheumatology consult on Michael. Upon information and belief, Dr. McCahan failed to advise Dr. Vlases to seek an immediate orthopedic consult for Michael's post-operative knee, and failed to recognize that Michael was being over-hydrated, instead ordering increased fluid intake.

26. Dr. Vlases called Defendant Timothy O'Brien, M.D., on the morning of April 22, 2012. Upon information and belief, Dr. O'Brien failed to recognize the urgency of Michael's condition, and failed to immediately take him to surgery to treat his post-operative knee infection and provide other necessary life-saving care.

27. Michael died a few hours later of a pulmonary edema, secondary to sepsis and fluid overload. An autopsy revealed that Michael had experienced an eighteen pound weight gain from the time of his admission on April 21 to the time of his death on April 22.

28. Upon information and belief, the medical examiner incompetently failed to inspect Michael's post-operative knee or to extend his examination beyond Michael's lungs, resulting in an erroneous preliminary conclusion that the cause of death was heart failure secondary to Michael's controlled heart condition, hypertrophic cardiomyopathy. An EKG performed just moments before Michael's death revealed no indication of heart failure.

29. At all material times, Michael was in the physical custody and/or under the care, control and supervision of the Defendants.

COUNT I: PROFESSIONAL NEGLIGENCE
§ 27-1-501, MCA, survival claim against Defendants Vlasses,
Winton, McCahan, O'Brien, and John Doe P.A.

30. The Plaintiffs incorporate the foregoing facts and allegations and restate them as if set forth fully herein.

31. Each of the physicians and other professional care providers who attended to Michael owed him a duty to provide competent care and demonstrate reasonable skill and judgment, consistent with the degree of learning and ability possessed by other licensed professionals in good standing in the same fields.

32. The Defendant physicians and other professional care providers were professionally negligent and committed medical malpractice by breaching their duties to provide competent care, for reasons including but not limited to the acts and omissions described in paragraphs 20, 22 and 24–26.

33. As a direct and proximate result of these acts and omissions, the Defendant physicians and other professional care providers injured Michael and caused his untimely death.

34. Michael suffered economic damages in an amount to be determined at trial, including but not limited to: lost earning capacity during his infirmity; lost future earning capacity and future income due to his death; costs and expenses related to medical care, including treatments, procedures, and hospital stays that would not have been necessary but for the negligence of the Defendants; and funeral expenses.

35. Michael also suffered non-economic damages in an amount to be determined at trial, including but not limited to: emotional distress; fear of death; physical and mental pain and suffering; and loss of present and future enjoyment of life.

36. The Estate of Michael A. Beebe seeks damages for these injuries by and through Personal Representative Nancy Beebe pursuant to § 27-1-501, MCA.

COUNT II: VICARIOUS LIABILITY FOR PROFESSIONAL NEGLIGENCE
§ 27-1-501, MCA, survival claim against Defendants BDH, AOSM, and Livingston Healthcare

37. The Plaintiffs incorporate the foregoing facts and allegations and restate them as if set forth fully herein.

38. Upon information and belief, Drs. Vlases, Winton, McCahan and O'Brien, and John Doe PA, were affiliated with Defendant BDH (or a related entity or subsidiary organization) when they provided sub-standard care to Michael, or when they were otherwise negligent in diagnosing and treating his condition in the days leading up to his death, for reasons including but not limited to the acts and omissions described in paragraphs 20, 22 and 24–26.

39. Upon information and belief, Defendant BDH also employed additional doctors, nurses, physician assistants, and/or other caregivers who provided substandard care to Michael, or were otherwise negligent in diagnosing and treating his condition in the days leading up to his death, including but not limited to the acts and omissions described in paragraph 23.

40. Upon information and belief, Dr. O'Brien and John Doe PA were also employed by or otherwise affiliated with Defendant AOSM when they provided sub-standard care to Michael, or when they were otherwise negligent in diagnosing and treating his condition in the days leading up to his death, including but not limited to the acts and omissions described in paragraphs 20 and 26.

41. Upon information and belief, Defendant Livingston Healthcare employed nurses, physical therapists, and/or other caregivers who provided substandard care to Michael, or were otherwise negligent in diagnosing and treating his condition in the days

leading up to his death, including but not limited to the acts and omissions described in paragraph 19.

42. As a direct and proximate result of these acts and omissions, the employees, agents, and/or representatives of the Defendant healthcare-providing entities injured Michael and caused his untimely death.

43. Upon information and belief, all of the Defendant physicians and other caregivers who attended to Michael were acting in their professional capacities, as employees, agents and/or representatives of their respective employers, practices, and professional groups.

44. Defendants BDH, AOSM, and Livingston Healthcare are vicariously liable for the acts or omissions of their employees, agents and/or representatives under agency principles and the doctrine of *respondeat superior*.

45. Michael suffered economic damages in an amount to be determined at trial, including but not limited to: lost earning capacity during his infirmity; lost future earning capacity and future income; costs and expenses related to medical care, including treatments, procedures, and hospital stays that would not have been necessary but for the negligence of the Defendants; and funeral expenses.

46. Michael also suffered non-economic damages in an amount to be determined at trial, including but not limited to: emotional distress; fear of death; physical and mental pain and suffering; and loss of present and future enjoyment of life.

47. The Estate of Michael A. Beebe seeks damages for these injuries by and through Personal Representative Nancy Beebe pursuant to § 27-1-501, MCA.

COUNT III: NEGLIGENT TRAINING AND SUPERVISION

§ 27-1-501, MCA, survival claim against Defendants BDH and Livingston Healthcare

48. The Plaintiffs incorporate the foregoing facts and allegations and restate them as if set forth fully herein.

49. Hospitals and other healthcare-providing organizations have an independent non-delegable duty to offer, and require caregivers to participate in, ongoing training sufficient to ensure patient safety and quality care.

50. For reasons including but not limited to those set forth in paragraphs 19–20 and 22–26 (specifically including their failure to properly train employees to monitor and document patient fluid levels), Defendants BDH and Livingston Healthcare negligently failed to properly train their employees, thereby breaching their non-delegable duty to ensure patient safety and quality care.

51. Hospitals and other healthcare-providing organizations have an additional independent non-delegable duty to oversee the treatment of individual patients, including but not limited to formulating, adopting and enforcing rules and procedures adequate to ensure patient safety and quality care.

52. For reasons including but not limited to those set forth in paragraphs 19–20, and 22–26 (specifically including their failure to implement and oversee policies to prevent patient over-hydration), Defendants BDH and Livingston Healthcare negligently failed to supervise Michael's treatment and breached their non-delegable duty to ensure patient safety and quality care.

53. As a direct and proximate result of these acts and omissions, Defendants BDH and Livingston Healthcare injured Michael and caused his untimely death.

54. Michael suffered economic damages in an amount to be determined at trial, including but not limited to: lost earning capacity during his infirmity; lost future earning

capacity and future income; costs and expenses related to medical care, including treatments, procedures, and hospital stays that would not have been necessary but for the negligence of the Defendants; and funeral expenses.

55. Michael also suffered non-economic damages in an amount to be determined at trial, including but not limited to: emotional distress; fear of death; physical and mental pain and suffering; and loss of present and future enjoyment of life.

56. The Estate of Michael A. Beebe seeks damages for these injuries by and through Personal Representative Nancy Beebe pursuant to § 27-1-501, MCA.

COUNT IV: PROFESSIONAL NEGLIGENCE
§ 27-1-513, MCA, wrongful death claim against Defendants
Vlases, Winton, McCahan, O'Brien, and John Doe P.A.

57. The Plaintiffs incorporate the foregoing facts and allegations and restate them as if set forth fully herein.

58. Each of the physicians and other professional care providers who attended to Michael owed him a duty to provide competent care and demonstrate reasonable skill and judgment, consistent with the degree of learning and ability possessed by other licensed professionals in good standing in the same fields.

59. The Defendant physicians and other professional care providers were professionally negligent and committed medical malpractice by breaching their duty to provide competent care, for reasons including but not limited to the acts and omissions described in paragraphs 20, 22 and 24–26.

60. As a direct and proximate result of these acts and omissions, the Defendant physicians and other professional care providers injured Michael and caused his untimely death.

61. Michael's surviving spouse, Nancy, and son, Fergus, seek damages for these injuries pursuant to § 27-1-513, MCA. Nancy and Fergus are entitled to all damages that are appropriate under the circumstances, § 27-1-323, MCA, in an amount to be determined at trial.

62. Michael's surviving spouse, Nancy, has been directly injured by the foregoing negligent acts and omissions in many ways, including but not limited to: emotional distress, grief, and sorrow; mental pain and anguish; and anxiety about the future.

63. Nancy has also been injured by the loss of spousal consortium, including but not limited to: the loss of Michael's affection, comfort, protection, society, and moral and emotional support; the loss of advice, counsel, and guidance; the loss of household services; the loss of his filial care to their son Fergus; as well as the loss of the monetary contributions Michael would have made for her care and support.

64. Michael's son, Fergus, has also been directly injured by the foregoing negligent acts and omissions in many ways, including but not limited to: emotional distress, grief and sorrow; mental pain and anguish; and anxiety about the future.

65. Fergus, a minor at the time of his father's death, has also been injured by the loss of parental consortium, including but not limited to: the loss of parental care; the loss of affection, comfort, protection, society, and moral and emotional support; the loss of advice, counsel, and guidance; as well as the loss of the monetary contributions Michael would have made for the support, education, training and care of his son.

COUNT V: VICARIOUS LIABILITY FOR PROFESSIONAL NEGLIGENCE

§ 27-1-513, MCA, wrongful death claim against Defendants BDH, AOSM, and Livingston Healthcare

66. The Plaintiffs incorporate the foregoing facts and allegations and restate them as if set forth fully herein.

67. Upon information and belief, Drs. Vlases, Winton, McCahan and O'Brien, and John Doe PA, were affiliated with Defendant BDH (or a related entity or subsidiary organization) when they provided sub-standard care to Michael, or when they were otherwise negligent in diagnosing and treating his condition in the days leading up to his death, for reasons including but not limited to the acts and omissions described in paragraphs 20, 22 and 24–26.

68. Upon information and belief, Defendant BDH also employed additional doctors, nurses, physician assistants, and/or other caregivers who provided substandard care to Michael, or were otherwise negligent in diagnosing and treating his condition in the days leading up to his death, including but not limited to the acts and omissions described in paragraph 23.

69. Upon information and belief, Dr. O'Brien and John Doe PA were also employed by or otherwise affiliated with Defendant AOSM when they provided sub-standard care to Michael, or when they were otherwise negligent in diagnosing and treating his condition in the days leading up to his death, including but not limited to the acts and omissions described in paragraphs 20 and 26.

70. Upon information and belief, Defendant Livingston Healthcare employed nurses, physical therapists, and/or other caregivers who provided substandard care to Michael, or were otherwise negligent in diagnosing and treating his condition in the days leading up to his death, including but not limited to the acts and omissions described in paragraph 19.

71. As a direct and proximate result of these acts and omissions, the employees, agents, and/or representatives of the Defendant healthcare-providing entities injured Michael and caused his untimely death.

72. Upon information and belief, all of the Defendant physicians and other caregivers who attended to Michael were acting in their professional capacities, as employees, agents and/or representatives of their respective employers, practices, and professional groups.

73. Defendants BDH, AOSM, and Livingston Healthcare are vicariously liable for the acts or omissions of their employees, agents and/or representatives under agency principles and the doctrine of *respondeat superior*.

74. Michael's surviving spouse, Nancy, and son, Fergus, seek damages for these injuries pursuant to § 27-1-513, MCA. Nancy and Fergus are entitled to all damages that are appropriate under the circumstances, § 27-1-323, MCA, in an amount to be determined at trial.

75. Michael's surviving spouse, Nancy, has been directly injured by the foregoing negligent acts and omissions in many ways, including but not limited to: emotional distress, grief, and sorrow; mental pain and anguish; and anxiety about the future.

76. Nancy has also been injured by the loss of spousal consortium, including but not limited to: the loss of Michael's affection, comfort, protection, society, and moral and emotional support; the loss of advice, counsel, and guidance; the loss of household services; the loss of his filial care to their son Fergus; as well as the loss of the monetary contributions Michael would have made for her care and support.

77. Michael's son, Fergus, has also been directly injured by the foregoing negligent acts and omissions in many ways, including but not limited to: emotional distress, grief and sorrow; mental pain and anguish; and anxiety about the future.

78. Fergus, a minor at the time of his father's death, has also been injured by the loss of parental consortium, including but not limited to: the loss of parental care; the loss of affection, comfort, protection, society, and moral and emotional support; the loss of advice, counsel, and guidance; as well as the loss of the monetary contributions Michael would have made for the support, education, training and care of his son.

COUNT VI: NEGLIGENT TRAINING AND SUPERVISION

§ 27-1-513, MCA, wrongful death claim against Defendants BDH and Livingston Healthcare

79. The Plaintiffs incorporate the foregoing facts and allegations and restate them as if set forth fully herein.

80. Hospitals and other healthcare-providing organizations have an independent non-delegable duty to offer, and require caregivers to participate in, ongoing training sufficient to ensure patient safety and quality care.

81. For reasons including but not limited to those set forth in paragraphs 19–20 and 22–26 (specifically including their failure to properly train employees to monitor and document patient fluid levels), Defendants BDH and Livingston Healthcare negligently failed to properly train their employees, thereby breaching their non-delegable duty to ensure patient safety and quality care.

82. Hospitals and other health care providing organizations have an additional independent non-delegable duty to oversee the treatment of individual patients, including but not limited to formulating, adopting and enforcing rules and procedures adequate to ensure patient safety and quality care.

83. For reasons including but not limited to those set forth in paragraphs 19–20, and 22–26 (specifically including their failure to implement and oversee policies to prevent patient over-hydration), Defendants BDH and Livingston Healthcare negligently failed to supervise Michael's treatment and breached their non-delegable duty to ensure patient safety and quality care.

84. As a direct and proximate result of these acts and omissions, Defendants BDH and Livingston Healthcare injured Michael and caused his untimely death.

85. Michael's surviving spouse, Nancy, and son, Fergus, seek damages for these injuries pursuant to § 27-1-513, MCA. Nancy and Fergus are entitled to all damages that are appropriate under the circumstances, § 27-1-323, MCA, in an amount to be determined at trial.

86. Michael's surviving spouse Nancy has been directly injured by the foregoing negligent acts and omissions in many ways, including but not limited to: emotional distress, grief, and sorrow; mental pain and anguish; and anxiety about the future.

87. Nancy has also been injured by the loss of spousal consortium, including but not limited to: the loss of Michael's affection, comfort, protection, society, and moral and emotional support; the loss of advice, counsel, and guidance; the loss of household services; the loss of his filial care to their son Fergus; as well as the loss of the monetary contributions Michael would have made for her care and support.

88. Michael's son, Fergus, has also been directly injured by the foregoing negligent acts and omissions in many ways, including but not limited to: emotional distress, grief and sorrow; mental pain and anguish; and anxiety about the future.

89. Fergus, a minor at the time of his father's death, has also been injured by the loss of parental consortium, including but not limited to: the loss of parental care; the loss

of affection, comfort, protection, society, and moral and emotional support; the loss of advice, counsel, and guidance; as well as the loss of the monetary contributions Michael would have made for the support, education, training and care of his son.

COUNT VII: DECLARATORY JUDGMENT

Unconstitutionality of § 25-9-411, MCA, Noneconomic Damages Limitation

90. The Plaintiffs incorporate the foregoing facts and allegations and restate them as if set forth fully herein.

91. Section 25-9-411, MCA, purports to limit awards of noneconomic damages in various ways, including establishing a maximum award of \$250,000 for a "single incident of malpractice."

92. Plaintiffs believe and allege that they are entitled to, and anticipate they will obtain from the jury, an award of noneconomic damages on their medical malpractice claims in excess of \$250,000.

93. Plaintiffs are "persons," as that term is defined in § 27-8-104, MCA, for the purposes of the Uniform Declaratory Judgments Act, §§ 27-8-101, MCA, *et seq.*

94. The existence of the purported cap on noneconomic damages creates uncertainty and insecurity with respect to the Plaintiffs' rights and legal relations, as those terms are used in § 27-8-102, MCA.

95. Plaintiffs rights are or may be affected by § 25-9-411, MCA.

96. Plaintiffs are entitled to ask the Court to determine the validity of § 25-9-411, MCA, pursuant to §§ 27-8-101, MCA, *et seq.*

97. This Court has the power to declare the parties' rights. § 27-8-201, MCA.

98. Section 25-9-411, MCA, is unconstitutional and invalid as a violation of the following clauses of the Montana Constitution: Art. II, § 16 (access to justice and right to full legal redress); Art. II, § 17 (due process of law); Art. II, § 26 (right to trial by jury); Art.

II, § 4 (equal protection); Art. V, § 12 (special legislation); and Art. III, § 1 (separation of powers).

99. Plaintiffs are entitled to a declaration that § 25-9-411, MCA, is invalid and does not limit their recovery of noneconomic damages.

100. This claim for declaratory relief regarding the validity of § 25-9-411, MCA, may not yet be ripe, and may not become ripe unless and until Plaintiffs obtain an award which the statute purports to limit. Plaintiffs plead it at this stage to avoid a waiver of their right to challenge the validity of the statute.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants for all relief to which they are entitled under Montana law, including (but not limited to):

- A. An award of all special and compensatory damages caused by Defendants' negligence;
- B. Costs;
- C. A declaration that § 25-9-411, MCA, is invalid and does not limit Plaintiffs' recovery of noneconomic damages; and
- D. All other and further relief this Court deems fair and just.

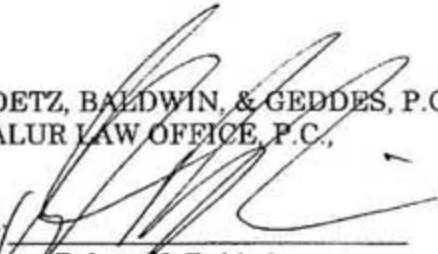
DEMAND FOR JURY TRIAL

Plaintiffs demands trial by jury of all issues of fact in this case.

Dated February 10, 2014.

GOETZ, BALDWIN, & GEDDES, P.C., and
KALUR LAW OFFICE, P.C.,

By


Robert K. Baldwin
Attorneys for the Plaintiffs