

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

**ALADINO RODRÍGUEZ, CINDY
GUEDES,**

Plaintiffs,

vs.

**YAUCO HEALTHCARE CORPORATION
d/b/a Hospital Metropolitano Dr. Tito
Mattei; CONTINENTAL CASUALTY
COMPANY (CNA); DR. JORGE A.
RODRÍGUEZ DÁVILA; CONJUGAL
PARTNERSHIP RODRÍGUEZ-DOE; DR.
RUBÉN C. BANCHS-SEDA; CONJUGAL
PARTNERSHIP BANCHS-ROE;
SINDICATO DE ASEGURADORES PARA
LA SUSCRIPCION CONJUNTA DE
SEGURO DE RESPONSABILIDAD
P R O F E S I O N A L M E D I C O -
HOSPITALARIA (“SIMED”), as well as
any Other Joint Tortfeasors John Doe and
James Roe; XYZ Insurance Companies,**

Defendants.

CIVIL NO. 10-1912 (____)

**TORT ACTION FOR MEDICAL
MALPRACTICE**

TRIAL BY JURY DEMANDED

COMPLAINT

TO THE HONORABLE COURT:

APPEAR NOW the plaintiffs **ALADINO RODRÍGUEZ** and **CINDY GUEDES**, through the undersigned attorneys, and respectfully state, allege and request as follows:

JURISDICTIONAL BASIS

1. This case is based upon diversity jurisdiction under 28 U.S.C. §1332.
2. Plaintiffs **ALADINO RODRÍGUEZ** and **CINDY GUEDES** are domiciliaries and residents

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of the state of Florida and Maryland, respectively.

3. All Defendants are domiciled, incorporated or with principal place of business in Puerto Rico or in another state other than Florida or Maryland.
4. The matter in controversy exceeds the sum of Seventy Five Thousand Dollars (\$75,000), exclusive of interest and costs, vesting jurisdiction on this Honorable Court pursuant to 28 U.S.C. § 1332.
5. Venue is proper in the District of Puerto Rico pursuant to 28 U.S.C. §1391, since the events or omissions giving rise to this claim occurred in this district.

THE PARTIES

6. Plaintiff ALADINO RODRÍGUEZ is a resident of the state of Florida and son of Margarita Guzmán.
7. Plaintiff CINDY GUEDES is a resident of the state of Maryland and stepdaughter of Margarita Guzmán.
8. Co-Defendant YAUCO HEALTHCARE CORPORATION is a corporation duly incorporated and registered under the laws of Puerto Rico and with its principal place of business in Puerto Rico.
9. Co-defendant YAUCO HEALTHCARE CORPORATION owns and/or operates Hospital Metropolitano Dr. Tito Mattei (hereinafter “Hospital Tito Mattei” or ‘hospital’) located at Rd. 128 KM 1.0, Yauco, Puerto Rico, wherein it provides its patients with hospital care.
10. Co-defendant Continental Casualty Company (CNA) is an insurance company organized, existing and with their principal place of business in Puerto Rico or a state or territory other

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than Florida or Maryland, which issued a professional liability insurance policies on behalf of co-defendant Yauco Healthcare Corporation d/b/a Hospital Metropolitano Dr. Tito Mattei for negligent acts and omissions subject of this complaint.

11. Co-defendant Dr. RUBÉN C. BANCHS-SEDA (hereinafter “Dr. Banchs” or “Banchs”) is an emergency room physician and is authorized to practice medicine in Puerto Rico.
12. Co-defendant Dr. Banchs treated Ms. Guzmán at the emergency ward of Hospital Tito Mattei on December 31, 2009.
13. Upon information and belief, co-defendant Dr. Banchs is married, and thus, together with his wife, they constituted the CONJUGAL PARTNERSHIP BANCHS-DOE at all times relevant to this cause of action and is liable for the damages caused by the other spouse while engaging in those activities which benefit the conjugal partnership.
14. Co-defendant Dr. JORGE A. RODRÍGUEZ DÁVILA (hereinafter “Dr. Rodríguez” or “Rodríguez”) is a internal medicine physician authorized to practice medicine in Puerto Rico.
15. Co-defendant Dr. RODRÍGUEZ was assigned as Ms. Guzmán’s treating physician, once she was admitted to the intensive care unit (ICU) of the Hospital Tito Mattei.
16. Upon information and belief, co-defendant Dr. Rodríguez is married, and thus, together with his wife, they constituted the CONJUGAL PARTNERSHIP RODRÍGUEZ-ROE at all times relevant to this cause of action and is liable for the damages caused by the other spouse while engaging in those activities which benefit the conjugal partnership.
17. Co-defendant SINDICATO DE ASEGURADORES PARA LA SUSCRIPCION CONJUNTA DE SEGURO DE RESPONSABILIDAD PROFESIONAL MEDICO-

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HOSPITALARIA (hereinafter, “SIMED”) is an insurance company organized, existing and with their principal place of business in Puerto Rico or a state or territory other than Florida, which issued a professional liability insurance policies on behalf of defendants Dr. Banchs, Dr. Rodríguez and/or other unknown joint tortfeasors.

18. Co-defendants JOHN DOE and JAMES ROE are unknown joint tortfeasors, and XYZ Insurance Company are fictitiously named herein to be later replaced by their actual names which may become known through further discovery in this litigation, and who may be therefore liable to Plaintiffs, in whole or in part, for the actions herein described and the damages suffered by Plaintiffs.

GENERAL ALLEGATIONS

19. On December 31, 2009, at approximately 2:18 am, an ambulance was called for Ms. Margarita Guzmán Andujar, a 74 year old woman, suffering of chest pain, dizziness and nausea.
20. At 3:03 am, the ambulance rushed Ms. Guzmán to the emergency ward of Hospital Dr. Tito Mattei, arriving at 3:07 am.
21. At 3:15 am, Ms. Guzmán’s was triaged and nurse recorded patient was suffering from acute chest pain.
22. Upon Ms. Guzmán’s arrival at the hospital’s emergency ward, she was placed under the care of emergency medicine physician Dr. Banchs.
23. At the emergency ward of the hospital, Ms. Guzmán had an electrocardiogram (ECG) performed, which revealed ST elevation, the beginning of an acute myocardial infarction.

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24. ECG revealed that Ms. Guzmán's heart was just beginning which is when aggressive therapeutic intervention is most beneficial to the patient.
25. The results of laboratory tests further corroborated Ms. Guzmán was having an acute myocardial infarction.
26. Thrombolytic medication is administered to a patient suffering from an acute myocardial infarction to dissolve a major clot and help restart blood flow to the heart thereby helping to prevent or reduce damage to the heart muscle, prolonging life and diminishing complications.
27. Time is of the essence when administering thrombolytic medication to a patient suffering from an acute myocardial infarction.
28. The sooner thrombolytic therapy is administered to a patient, the better probability of preventing or reducing damage to the heart tissues.
29. Standard protocol requires administering thrombolytic therapy to a patient suffering from Ms. Guzmán's cardiac condition within 30 minutes from door to needle, that is from arrival at emergency department to the starting of thrombolytic therapy.
30. Standard protocol requires administering beta blockers to a patient suffering from Ms. Guzmán's cardiac condition within minutes of arrival at the emergency department.
31. On December 31, 2009, at approximately 5:00 am, Dr. Banchs admitted Ms. Guzmán to the hospital's intensive care unit (ICU) under the care of Dr. Rodríguez.
32. Hospital staff is required to promptly notify Dr. Rodríguez that Ms. Guzmán was transferred to his care.

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33. Although records indicate that Ms. Guzmán was transferred from the emergency department to ICU at 5:00 am, she was not physically taken to the ICU by the nursing personnel until 9:30 am.
34. While patient was physically in Emergency Department, Ms. Guzmán was supposed to be provided ICU care until Dr. Rodríguez takes over.
35. During these four and a half (4½) hours, Ms. Guzmán was physically in the emergency department of the hospital and not afforded ICU treatment.
36. Interns or residents working at the hospital, under Defendants' supervision, attended to Ms. Guzmán.
37. Although the interns/residents tended to Ms. Guzmán during the morning of December 31, 2009, none ordered thrombolytic therapy to be administered to Ms. Guzmán.
38. The administration of Beta blockers did not occur for approximately six (6) hours after Ms. Guzmán arrived at the emergency ward of the hospital.
39. Standard protocol for patient's with ST elevation myocardial infarction requires immediate intervention with thrombolytic therapy without the need to await results of laboratory cardiac enzymes.
40. Laboratory results for cardiac enzymes in a patient with Ms. Guzmán's condition are required to be obtained in an hour or less.
41. Even after tests corroborated that Ms. Guzmán was suffering from an acute myocardial infarction (AMI), neither the emergency room physician nor the internist in charge ordered thrombolytic therapy during the entire morning of December 31, 2009.

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42. On December 31,2009, it was not until 12:30 pm that Dr. Rodríguez first ordered the thrombolytic medication alteplase to be administered Ms. Guzmán.
43. Hospital's medical records reveal that alteplase was not administered to Ms. Guzmán until between 2:55 pm and 2:59 pm by the hospital nursing personnel.
44. It was almost twelve (12) hours after Ms. Guzmán arrived at the hospital premises that alteplase was finally administered to the patient.
45. Ms. Guzmán was administered an excessive amount of sedative (ativan) which depressed her ability to breathe, provide feedback or recuperate.
46. Ms. Guzmán, in spite of being in the intensive care unit, was not cared for adequately by the nursing personnel.
47. The hospital's nursing care was below standard and the nurses failed to regularly bathe, clean Ms. Guzmán and clean the hospital bed sheets.
48. The nurses failed to keep the patient covered and under basic hygienic conditions.
49. The nurses failed to monitor the patient's position and left her in painful positions unable to move herself due to heavy sedation.
50. Ms. Guzmán bled through the mouth and the nurses failed to clean the patient.
51. The substandard nursing care affected Ms. Guzmán's personal hygiene.
52. The substandard nursing care, included failing to care for her bloodied mouth and addressing the dangling tooth to prevent the patient from choking or swallowing the tooth.
53. Dr. Juan R. Pillot, who substituted Dr. Rodríguez, regularly reported to the family that there was no need for concern since Ms. Guzmán was stable and doing well.

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54. It was on the fourth (4th) day of Ms. Guzmán's hospital stay at Hospital Tito Mattei, the family was able to intercept and finally speak to cardiologist, Dr. Anibal J. Lugo.
55. Dr. Lugo reported that Ms. Guzmán's cardiac condition was very serious and had allegedly been trying to transfer her to a facility that had the necessary medical personnel and equipment to adequately treat her.
56. Dr. Lugo stated to the family that from the beginning of Ms. Guzmán's stay, he was concerned that her cardiac condition could not be adequately treated at the Hospital Tito Mattei.
57. Dr. Lugo indicated that Hospital Tito Mattei lacked the personnel and equipment to treat Ms. Guzmán.
58. Upon hearing this assessment from Dr. Lugo, Ms. Guzmán's family quickly contacted and arranged for a cardiologist to take over her care at the Hospital San Lucas in Ponce, Puerto Rico.
59. Dr. Rodríguez told the family that the hospital was as well staffed and equipped as the Hospital San Lucas in Ponce and initially refused to sign the transfer documents.
60. Eventually, Dr. Rodríguez signed the transfer note on January 4, 2010 at 8:40 pm.
61. Once the transfer was signed by Dr. Rodríguez, the hospital staff informed the family that there were no ambulances available and that Ms. Guzmán would have to wait until the next day.
62. Ms. Guzmán's family arranged for a private ambulance service who transferred her to Hospital San Lucas.

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63. Although the overall medical and nursing care were greatly improved at Hospital San Lucas, Ms. Guzmán had suffered irreversible heart damage while at Hospital Tito Mattei and eventually died as a result of it.
64. At all times material hereto, co-defendant Dr. Banchs was an emergency medicine physician with privileges and was allowed to practice medicine at Hospital Tito Mattei at the time of admission of Ms. Margarita Guzmán to Hospital Tito Mattei.
65. Co-defendant Hospital Tito Mattei assigned Dr. Banchs as Ms. Guzmán's emergency medicine doctor.
66. On January 31, 2009, Dr. Banchs admitted his patient, Ms. Guzmán, to the emergency department with a preliminary diagnosis of acute coronary syndrome.
67. ECG demonstrated that Ms. Guzmán was suffering from the beginning of an ST elevation myocardial infarction.
68. Co-defendant Dr. Banchs was Ms. Guzmán's emergency room physician and as such, was in charge of the patient's care at the Hospital Tito Mattei's emergency department.
69. Co-Defendant Dr. Banchs ordered a cardiology consult at 5:00 am, but the hospital staff waited approximately three (3) hours until 7:55 am to call and leave cardiologist a message.
70. Despite Ms Guzmán's emergency cardiac condition, hospital personnel failed to timely and effectively contact a cardiologist.
71. Co-defendant Dr. Banchs transferred Ms. Guzmán to the care of Dr. Rodríguez at 5:00 am, it was not until approximately 12:30 pm that Dr. Rodríguez began treating Ms. Guzmán.
72. Treatment and monitoring of Ms. Guzmán's cardiac condition was substandard at Hospital

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Tito Mattei.

73. Co-defendant Hospital Tito Mattei lacked the equipment or personnel to treat Ms. Guzmán and failed to inform the patient or family until Dr. Lugo finally spoke to family members on the 5th day of Ms. Guzmán's stay at the hospital.
74. Co-defendant Hospital Tito Mattei knew or should have known that it did not have the staff or equipment to adequately treat Ms. Guzmán and failed to timely transfer Ms. Guzmán for appropriate treatment of her cardiac condition.
75. Co-defendant Hospital Tito Mattei's personnel belatedly and ineffectively administered thrombolytic therapy before irreversible cardiac tissue damage had occurred.
76. Ms. Guzmán eventually died as a result of the lack of timely and effective medical treatment administered by co-defendant Hospital Tito Mattei's nursing and medical personnel assigned to her treatment.

FIRST CAUSE OF ACTION
AGAINST CO-DEFENDANT HOSPITAL TITO MATTEI

77. The allegations contained above are incorporated by reference as if again fully set forth herein.
78. Co-defendant Hospital Tito Mattei, through its acts or omissions caused damage to Plaintiffs through fault or negligence in violation of Articles 1802 and 1803 of the Puerto Rico Civil Code, 31 L.P.R.A. §§ 5141, 5142.
79. Co-defendant Hospital Tito Mattei has an emergency department within its hospital premises.
80. Co-defendant Hospital Tito Mattei, at all relevant times of this complaint, operated or

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contracted to operate an emergency department within its premises.

81. Co-defendant Hospital Tito Mattei holds itself out to the public as having an emergency department on its premises.
82. The hospital sets up policies, procedures and/or requirements for the operation of the emergency department on its premises.
83. The hospital is in charge of assuring that the emergency department physicians are appropriately qualified and credentialed.
84. The hospital supplies nursing, clerical and administrative personnel to the emergency department.
85. The hospital derives revenue from the services provided at and by the emergency department within its premises.
86. The hospital is liable for medical malpractice occurring at the emergency department located on its premises.
87. The hospital assigned co-defendants Dr. Banchs and Dr. Rodríguez to the care of Ms. Guzmán.
88. The treatment offered by co-defendant Hospital Tito Mattei, through its personnel, to Ms. Guzmán was below the medical standard that satisfies the exigencies generally recognized by the medical profession in light of the modern means of communication and teaching, and as such directly caused and/or contributed to causing Plaintiffs the untimely death of their beloved mother, Margarita Guzmán, and the injuries as described herein.
89. Co-defendant Hospital Tito Mattei's personnel failed to exercise the care and precautions

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- required under the circumstances in order to prevent the loss of Ms. Guzmán's life, lacked the required knowledge and medical skill, failed to timely have available the personnel and equipment necessary to avoid the injuries and subsequent death of Ms. Guzmán.
90. Co-defendant Hospital Tito Mattei negligently failed to ensure that its assigned physicians initiate timely and appropriate therapeutic treatments to Ms. Guzmán.
 91. Co-defendant Tito Mattei hospital employs interns and residents and as such the hospital is responsible for any acts of negligence carried out by them.
 92. Hospital's interns/residents failed to timely administer thrombolytic and beta blockers to Ms. Guzmán.
 93. Co-defendant Tito Mattei negligently failed to obtain qualified medical personnel to timely treat Ms. Guzmán's cardiac condition.
 94. Co-defendant Tito Mattei provided inadequate and substandard nursing care to Ms. Guzmán.
 95. The hospital's nurses failed to promptly administer life saving medication and treatment to Ms. Guzmán.
 96. The hospital's nurses failed to adequately care for Ms. Guzmán's medical and personal hygienic needs.
 97. The hospital's nurses refused to carry out basic patient care, even after asked by Ms. Guzmán's family.
 98. The hospital's nurses demonstrated a total disregard for the well being of Ms. Guzmán while at the ICU ward of the hospital.
 99. Co-defendant Hospital Tito Mattei negligently and carelessly failed to timely transfer Ms.

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Guzmán to another medical institution with the proper equipment and personnel to treat her condition.

100. Co-defendant Hospital Tito Mattei's personnel failed to timely contact and ensure medical personnel was summoned to provide Ms. Guzmán with appropriate medical treatment on a timely basis.
101. Co-defendant Hospital Tito Mattei left Ms. Guzmán's care to unsupervised interns who failed to provide timely life saving treatment.
102. Co-defendant Hospital Tito Mattei negligently failed to provide the medical treatment and equipment to timely provide the therapeutic treatments in time to avoid irreparable cardiac damage to Ms. Guzmán.
103. At all times herein pertinent, co-defendant Hospital Tito Mattei, its directors, officers, and employees were negligent in failing to provide the proper medical attention to Ms. Guzmán, in failing to provide the proper supervision of co-defendants Dr. Banchs and Dr. Rodríguez and the medical personnel it employs, and otherwise failing to exercise due care and caution to prevent the tortious conduct and injuries to Plaintiffs and to Ms. Guzmán.
104. Co-defendant Hospital Tito Mattei not only failed to adequately supervise the co-defendant physicians, but permitted the use of its facilities, allowing, encouraging, and condoning the negligent care and improper treatment of Ms. Guzmán, proximately and directly causing Plaintiffs' injuries.
105. Co-defendant Hospital Tito Mattei offered medical services to its patients, but failed to staff its hospital with the medical personnel and equipment necessary to timely and appropriately

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and safely treat its patients.

106. In so doing, co-defendant Hospital Tito Mattei misled those who sought full hospital treatment into thinking that they would be appropriately treated.
107. Co-defendant Hospital Tito Mattei failed to timely inform Ms. Guzmán and her family that it did not have the proper facilities, equipment and personnel to treat and monitor Ms. Guzmán's cardiac condition.
108. Co-defendant Tito Mattei did not provide the timely services of a person capable of handling the emergency medical conditions.
109. As a direct and proximate result of co-defendant Hospital Tito Mattei's lack of available physicians as well as the supervision of the treating physicians, technicians and other medical personnel and its failure to staff its clinic with the medical personnel and equipment necessary to appropriately treat such emergency situations at the hospital, co-defendant Hospital Tito Mattei and its personnel negligently caused Plaintiffs the untimely death of their mother and the injuries as described herein.
110. As a direct and proximate cause of co-defendant Hospital Tito Mattei and its personnel's failure to adequately treat Ms. Guzmán, Plaintiffs sustained severe injuries and other damages, as described below.

SECOND CAUSE OF ACTION
AGAINST CO-DEFENDANT DR. BANCHS

111. The allegations contained above are incorporated by reference as if again fully set forth herein.
112. Defendant Dr. Rubén C. Banchs Seda, through his acts or omissions caused damages to

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Plaintiffs through fault or negligence in violation of Article 1802 of the Puerto Rico Civil Code, 31 L.P.R.A. § 5141.

113. Co-defendant Dr. Banchs treated Mrs. Guzmán upon her arrival to the hospital's emergency department on December 31, 2009.
114. Co-defendant Dr. Banchs was the emergency room physician who received Ms. Guzmán suffering from an acute coronary syndrome.
115. Co-defendant Dr. Banchs ordered laboratory tests and ECG for Ms. Guzmán, which revealed an ST elevation acute myocardial infarction but failed to order thrombolytic therapy and beta blockers.
116. Co-defendant Dr. Banchs transferred Ms. Guzmán from the emergency ward without ensuring that she would receive timely and proper treatment.
117. Co-defendant Dr. Banchs failed to follow up on Ms. Guzmán's condition and appropriately treat her serious condition, leaving her in the care of interns or residents.
118. Interns or residents treated Ms. Guzmán while physically in emergency ward unsupervised by Dr. Banchs or Dr. Rodríguez.
119. Co-defendant Dr. Banchs's treatment of Ms. Guzmán was below the medical standard that satisfies the exigencies generally recognized by the medical profession in light of the modern means of communication and teaching, and as such directly caused and/or contributed to causing Plaintiffs the untimely death of their beloved mother, Ms. Guzmán, and the injuries as described herein.
120. Co-defendant Dr. Banchs negligently and carelessly failed to timely manage Ms. Guzmán's

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medical condition.

121. Co-defendant Dr. Banchs failed to exercise reasonable care and skill commensurate with the standard of care practiced in the medical profession at that time and under like and similar circumstances when he failed, among other things, to appropriately treat Ms. Guzmán by improperly discharging patient to the hospital's ICU.
122. Co-defendant Dr. Banchs failed to exercise reasonable care and skill commensurate with the standard of care practiced in the medical profession at that time and under like and similar circumstances by failing to timely treat and adequately prescribe a thrombolytic to Ms. Guzmán.
123. Co-defendant Dr. Banchs failed to exercise reasonable care and skill commensurate with the standard of care practiced in the medical profession at that time and under like and similar circumstances by failing to adequately follow up on this patient who was physically in the emergency department.
124. Co-defendant Dr. Banchs failed to exercise reasonable care and skill commensurate with the standard of care practiced in the medical profession at that time and under like and similar circumstances by failing to ensure that this patient was promptly taken to the ICU.
125. Co-defendant Dr. Banchs failed to exercise reasonable care and skill commensurate with the standard of care practiced in the medical profession at that time and under like and similar circumstances by failing to closely monitor this patient while in his care or physically in the emergency department.
126. Co-defendant Dr. Banchs failed to exercise reasonable care and skill commensurate with the

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standard of care practiced in the medical profession at that time and under like and similar circumstances when he failed to appropriately treat Ms. Guzmán by failing to timely and adequately intervene when her condition so required.

127. In so doing, co-defendant Dr. Banchs committed professional negligence, including lack of expertise, fault and malpractice, which directly and proximately caused the injuries and damages suffered by Plaintiffs, particularly for the loss of Ms. Guzmán, as detailed herein.
128. As a direct and proximate cause of co-defendant Dr. Banchs' negligence in failing to adequately treat Ms. Guzmán, Plaintiffs sustained severe injuries and other damages, as described below.

THIRD CAUSE OF ACTION
AGAINST THE CONJUGAL PARTNERSHIP BANCHS-DOE

129. The allegations contained above are incorporated by reference as if again fully set forth herein.
130. Upon information and belief, at the time of the events described herein, co-defendant Dr. Banchs was married and had a conjugal partnership with his wife.
131. The acts or omissions by which co-defendant Dr. Banchs caused Plaintiffs damages were activities which benefitted co-defendant Conjugal Partnership Banchs-Doe comprised by Dr. Banchs and his wife, Jane Doe, referred to herein as such here for lack of information as to her real name.
132. As such, co-defendants Conjugal Partnership Banchs-Doe and Dr. Banchs are jointly and severally liable to all Plaintiffs for the damages caused by Dr. Banchs.

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FOURTH CAUSE OF ACTION
AGAINST CO-DEFENDANT DR. RODRÍGUEZ

133. The allegations contained above are incorporated by reference as if again fully set forth herein.
134. Co-defendant Dr. Jorge A. Rodríguez Dávila, through his acts or omissions caused damages to Plaintiffs through fault or negligence in violation of Article 1802 of the Puerto Rico Civil Code, 31 L.P.R.A. § 5141.
135. Co-defendant Dr. Rodríguez' treatment of Margarita Guzmán was below the medical standard that satisfies the exigencies generally recognized by the medical profession in light of the modern means of communication and teaching, and as such directly caused and/or contributed to causing Plaintiffs the untimely death of their beloved mother, Ms. Guzmán, and the injuries as described herein.
136. Co-defendant Dr. Rodríguez negligently and carelessly failed to timely respond to treat Ms. Guzmán as soon as she was placed under his care.
137. Co-defendant Dr. Rodríguez negligently and carelessly failed to timely and appropriately intervene, examine and treat Ms. Guzmán's serious medical condition.
138. Co-defendant Dr. Rodríguez negligently and carelessly failed to properly and timely order the thrombolytic antepulse allowing too much time to elapse thereby greatly increasing the probability of irreparable cardiac damage.
139. Co-defendat Dr. Rodríguez, after accepting Ms. Guzmán as his patient and seeing her once, proceeded to issue his medical orders, entrusting her care to others, while he left on vacation.
140. Co-defendant Dr. Rodríguez negligently and carelessly failed to follow up on the nursing

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- staff so that the ordered thrombolytic treatment was administered promptly to Ms. Guzmán.
141. Co-defendant Dr. Rodríguez negligently and carelessly tried to treat his patient Ms. Guzmán for a condition that the hospital was not equipped in staff or personnel.
142. Co-defendant Dr. Rodríguez negligently and carelessly failed to provide proper care of his patient, Ms. Guzmán, by failing to consult with the cardiologist, Dr. Anibal Lugo.
143. Defendant Dr. Rodríguez failed to exercise reasonable care and skill commensurate with the standard of care practiced in the medical profession at that time and under like and similar circumstances when he failed to immediately transfer his patient, Ms. Guzmán, to another medical institution that was properly equipped and staff to deal with her condition.
144. In so doing, co-defendant Dr. Rodríguez committed professional negligence, including lack of expertise, fault and malpractice, which directly and proximately caused the injuries and damages suffered by Plaintiffs, particularly for the loss of Ms. Guzmán, as detailed herein.
145. As a direct and proximate cause of co-defendant Dr. Rodríguez' negligence in failing to timely and properly treat Ms. Guzmán, Plaintiffs sustained severe injuries and other damages, as described below.

FIFTH CAUSE OF ACTION
AGAINST THE CONJUGAL PARTNERSHIP RODRÍGUEZ-ROE

146. The allegations contained above are incorporated by reference as if again fully set forth herein.
147. Upon information and belief, at the time of the events described herein, co-defendant Dr. Rodríguez was married and had a conjugal partnership with his wife.
148. The acts or omissions by which defendant Dr. Rodríguez caused Plaintiffs damages were

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activities which benefitted co-defendant Conjugal Partnership Rodríguez-Roe comprised by Rodríguez and his wife, Jane Roe, referred to herein as such here for lack of information as to her real name.

149. As such, co-defendants Conjugal Partnership Rodríguez-Roe and Dr. Rodríguez are jointly and severally liable to all Plaintiffs for the damages caused by Dr. Rodríguez.

SIXTH CAUSE OF ACTION
AGAINST CO-DEFENDANT CONTINENTAL CASUALTY COMPANY (CNA)

150. The allegations contained above are incorporated herein by reference as if again fully set forth.
151. Co-defendant Continental Casualty Company (CNA) was, at all times herein pertinent, an insurance company organized, existing and with their principal place of business in Puerto Rico or a state or territory other than Florida or Maryland, which issued a professional liability insurance policies on behalf of co-defendant Yauco Healthcare Corporation d/b/a Hospital Metropolitano Dr. Tito Mattei for negligent acts and omissions subject of this complaint.
152. Pursuant to 26 P.R. Laws Ann. § 2001, an insurance company is liable for the negligence or fault of its insured.
153. Pursuant to 26 P.R. Laws Ann. § 2003, an action against an insurer may be brought separately or may be joined together with an action against its insured.
154. As a result, co-defendant Continental Casualty Company (CNA) is severally liable to all Plaintiffs for the damages caused to them by co-defendant Hospital Tito Mattei.

SEVENTH CAUSE OF ACTION
AGAINST CO-DEFENDANT SIMED

155. The allegations contained above are incorporated herein by reference as if again fully set forth.
156. Upon information and belief, defendant SIMED was, at all times herein pertinent, an insurance company authorized to do business as such in Puerto Rico, which issued a public liability and/or professional liability insurance policies on behalf of co-defendants Dr. Banchs, Dr. Rodríguez and/or other unknown joint tortfeasors.
157. Pursuant to 26 P.R. Laws Ann. § 2001, an insurance company is liable for the negligence or fault of its insured.
158. Pursuant to 26 P.R. Laws Ann. § 2003, an action against an insurer may be brought separately or may be joined together with an action against its insured.
159. As a result, co-defendant SIMED is severally liable to all Plaintiffs for the damages caused to them by co-defendants co-defendants Dr. Banchs, Dr. Rodríguez and/or other unknown joint tortfeasors.

EIGHTH CAUSE OF ACTION
AGAINST CO-DEFENDANTS XYZ INSURANCE COMPANIES

160. The allegations contained above are incorporated herein by reference as if again fully set forth.
161. Co-defendants XYZ insurance companies were, at all times herein pertinent, authorized to do business as such in Puerto Rico, which issued a public liability and/or professional liability insurance policies on behalf of co-defendants Hospital Tito Mattei, Dr. Banchs, Dr. Rodríguez and/or other unknown joint tortfeasors.

162. Pursuant to 26 P.R. Laws Ann. § 2001, an insurance company is liable for the negligence or fault of its insured.
163. Pursuant to 26 P.R. Laws Ann. § 2003, an action against an insurer may be brought separately or may be joined together with an action against its insured.
164. As a result, co-defendants XYZ insurance companies are severally liable to all Plaintiffs for the damages caused to them by co-defendants Hospital Tito Mattei, Dr. Banchs, Dr. Rodríguez and/or other unknown joint tortfeasors.

NINTH CAUSE OF ACTION
AGAINST CO-DEFENDANTS JOHN DOE AND JAMES ROE

165. The preceding allegations are included herein as if restated in full.
166. Co-defendants John Doe and James Roe acted, or failed to act, negligently in carrying out their duties and functions as agents, contractors, owners, suppliers, administrators and/or supervisors of the medical services offered and supplied by co-defendant Hospital Tito Mattei.
167. Their fault and negligence contributed to the negligent and inadequate services given to Joaquina Vázquez, which in turn caused the damages herein specified to her, and are thus jointly and severally liable to Plaintiffs.

DAMAGES

168. The allegations contained above are incorporated by reference as if again fully set forth herein.
169. As a result of the professional negligence, lack of expertise, fault, and malpractice of all Defendants, Plaintiffs unnecessarily lost their mother, Margarita Guzmán, a vivacious, beloved, warm, caring and industrious person.

170. Margarita Guzmán and Plaintiffs had a very close and special relationship.
171. Margarita Guzmán and Plaintiffs visited, spoke regularly or otherwise were in contact.
172. In losing Margarita Guzmán, Plaintiffs not only lost their mother, but also a friend and confidant.
173. Plaintiffs have suffered dearly the loss of Margarita Guzmán.
174. As a direct and proximate result of the negligence of all Defendants, Plaintiff will no longer have the joy of having their mother, Margarita Guzmán, with them or otherwise enjoy the irreplaceable pleasures and value of Margarita Guzmán' company and advice.
175. As a direct and proximate result of Defendants' negligence, Plaintiffs will continue to suffer the irreparable loss of their mother, Margarita Guzmán.
176. As a direct and proximate result of Defendants' negligence, Margarita Guzmán suffered many hours in agony and eventually a painful death, a cause of action which plaintiff Aladino Rodríguez inherits as Margarita Guzmán's heir under Puerto Rico law.
177. Plaintiff Aladino Rodríguez' proportional share of his mother's pain and suffering has a reasonable value of no less than Two Hundred and Fifty Thousand dollars (\$250,000).
178. Plaintiff Aladino Rodríguez' emotional damages as a result of the needless and premature death of his beloved mother has a reasonable value of no less than One Million Seven Hundred and Fifty Thousand Dollars (\$1,750,000).
179. Plaintiff Cindy Guedes' emotional damages as a result of the unnecessary, painful and premature death of her beloved stepmother has a reasonable value of no less than One Million Seven Hundred and Fifty Thousand Dollars (\$1,750,000).
180. The damages suffered by Plaintiffs have a total reasonable value in excess of **THREE MILLION SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$3,750,000.00)**,

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including, but not limited to their own, past and future mental and emotional pain and suffering, as well as the inherited pain and suffering as described above.

181. Plaintiffs hereby demand trial by jury.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally, in the amount of no less than **THREE MILLION SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$3,750,000.00)**, plus costs incurred, reasonable attorneys' fees, and such other and further relief as to this Honorable Court may deem just and proper under the law.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 21th day of September, 2010.

Plaintiffs' Counsel:

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