

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

DIDDIER CANCEL OTERO,

Plaintiff,

v.

DORADO HEALTH, INC., D/B/A MANATI
MEDICAL CENTER; DR. MIGUEL ORTIZ-
BOU; CONTINENTAL INSURANCE
COMPANY, A, B, C INSURANCE
COMPANIES, INC.; E, F, G INSURANCE
COMPANIES; JOHN DOE; JAMES ROE; MOE-
FOE CONJUGAL PARTNERSHIPS I-X;

Defendants

CIVIL NO.: 19-1173

RE: TORT ACTION FOR
MEDICAL MALPRACTICE
PURSUANT TO ARTS. 1802 AND
1803, 31 P. R. Laws Ann. §§ 5141
AND 5142.

JURY TRIAL DEMANDED

COMPLAINT

TO THE HONORABLE COURT:

APPEARS NOW, DIDDIER CANCEL OTERO (hereinafter referred to as “Plaintiff”,
through the undersigned counsel, and hereby states, alleges, and requests as follows:

JURISDICTIONAL BASIS

1. This case is based upon diversity jurisdiction under 28 U.S.C. §1332.
2. Plaintiff is domiciled in and is a resident of the state of Florida.
3. All Defendants are either individuals who reside in Puerto Rico or corporations organized under the laws of the Commonwealth of Puerto Rico with his principal place of business in P.R. or of states other than Florida.

4. The matter in controversy exceeds the sum of SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00), exclusive of interest and costs, thus 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 and acts or omissions giving rise to this claim occurred in this district.

THE PARTIES

6. Plaintiff **DIDDIER CANCEL OTERO** (hereinafter “plaintiff” or “Diddier Cancel”) is the son of patient Japhet Cancel Martin (hereinafter “Japhet”, "the patient" or "Mr. Cancel Martin"), deceased on March 5, 2017.
7. Co- Defendant **DORADO HEALTH, INC., d/b/a MANATÍ MEDICAL CENTER** (hereinafter “**MANATÍ MEDICAL CENTER**”, “**MMC**” or “**hospital**”), is a corporation duly incorporated and registered in and with its principal place of business in Puerto Rico.
8. Co-Defendant **MMC** owns and/or operates a hospital located in Manatí, Puerto Rico, wherein it provides its patients with a gamut of hospital services and/or hospital care, including emergency, radiology, internal medicine, PACU, ICU, laboratory and other hospital care and services.
9. Co-Defendant **CONTINENTAL INSURANCE COMPANY**, is a CNA corporation, which insures Dorado Health Inc. D/B/A MANATI MEDICAL for medical, nursing, hospital staff and other personnel for medical malpractice.
10. Co-Defendant **DR. MIGUEL ORTIZ BOU** (hereinafter “**DR. ORTIZ**”) is a physician authorized to practice medicine in Puerto Rico, who is designated in the relevant medical record as the patient’s attending physician and who treated Mr. Japhet Cancel

while admitted to Defendant **MMC** on the relevant dates.

11. Co-Defendant **MMC** owns and/or operates a hospital located in Manati, Puerto Rico, wherein it provides its patients with a gamut of hospital services and/or hospital care, including nursing, emergency, surgery, ICU, respiratory, radiology, laboratory and other hospital care and services.
12. Co-Defendants **A, B, C Insurance Companies** are entities or corporations organized or operating under the laws of the Commonwealth of Puerto Rico, with their principal place of business in Puerto Rico or in a state other than Florida, which issued insurance policies on behalf of **MMC** for the acts or omissions described herein, encompassing the relevant period of time.
13. Co-Defendants **E, F, G INSURANCE** are entities or corporations organized or operating under the laws of the Commonwealth of Puerto Rico, with their principal place of business in Puerto Rico or in a state other than Florida, which issued insurance policies on behalf of one or more codefendants for the acts or omissions described herein, encompassing the relevant period of time.
14. Co-Defendants unknown joint tortfeasors **JOHN DOE** and **JAMES ROE** are physicians or other health care providers 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 liable to Plaintiff for the damages suffered, in whole or in part, for the actions and/or omissions herein described, encompassing the relevant period of time.

15. Co-Defendants **MOE-FOE CONJUGAL PARTNERSHIPS I-X** are unknown conjugal partnerships comprised of the individual defendants and their respective husbands and/or wives, who are currently unknown.

GENERAL ALLEGATIONS

16. Plaintiff is an adult son of Japhet Cancel Martin.
17. Japhet Cancel Martin was born on August 15, 1967 and was only 49 years old at the time of the events.
18. Japhet Cancel was a loving father of three sons, head of household and successful businessman who lived in Morovis, P.R.
19. On January 30, 2017, Japhet initially visited the CDT Plaza del Carmen in Corozal due to abdominal pain, but was transferred to MMC's emergency ward after Dr. Arroyo accepted the transfer for internal medicine treatment.
20. On January 30, 2017, at approximately 6:19 p.m., Japhet Cancel was triaged by a nurse at the Manati Medical Center Hospital (MMC) emergency ward.
21. On January 31, 2017, Japhet Cancel was admitted to MMC hospital on an emergency basis with acute pancreatitis.
22. MMC assigned Dr. Ortiz to treat Japhet Cancel as his attending.
23. Dr. Ortiz was a general practice doctor and neither an internist nor an infectologist.
24. Dr. Ortiz ordered laboratory tests that indicated the Japhet was very sick, however, he did not inform Japhet or his wife Diamar.
25. Despite dangers of developing emboli, Japhet was not administered an anticoagulant until nine days after admission.

26. Dr. Ortiz failed to adequately treat Japhet Cancel and his wife and Diddier's mother, Diamar Otero, complained to the MMC administration.
27. Dr. Disdier, an owner and administrator of MMC, had to personally intervene to ensure Japhet received better care through needed consultants and specialists.
28. Dr. Ortiz visited Japhet mainly late at night when Japhet and wife Diamar would be asleep.
29. These late night visits made it difficult to communicate effectively with Dr. Ortiz, report developments, discuss results, treatment and ensure to follow up care with hospital personnel.
30. Dr. Ortiz would seldom physically examine Japhet and, instead, relied on telephone orders and hospital interns or residents to evaluate and treat Japhet.
31. Japhet Cancel slowly and painfully recovered and, after a month of hospitalization, was to be discharged.
32. Japhet's propensity for blood clots was high, due to his risk factors.
33. While hospitalized, blood clots in Japhet's venous system had been detected.
34. During part of the hospitalization at MMC, Japhet was placed on anticoagulant Lovenox.
35. Japhet should have been placed on anticoagulant for an extended three to six month period, but was not.
36. Although it was Dr. Ortiz' ultimate decision to discharge Japhet Cancel, he never showed up to physically evaluate Japhet and ensure the discharge was appropriate.
37. Dr. Ortiz ordered Japhet discharged home at 1:30 p.m., on February 18, 2017.
38. Instead, Dr. Ortiz had a hospital intern discharge Japhet home, with the aid of a nurse.

39. During Japhet's hospital stay at MMC, he was fighting an infection and was administered antibiotics.
40. Prior to discharge, an infectologist had recommended administration of antibiotic, intravenously for seven days.
41. Japhet was discharged home with an endogastric tube (drainage tube) inserted into his abdomen, a definite source of infection.
42. During the hospitalization, Japhet had also developed blood clots and was being administered an anticoagulant called Lovenox.
43. Japhet's blood gas levels were not monitored prior to or at discharge, resulting in his being discharged with a low for level of oxygen saturation and without oxygen therapy.
44. Despite these conditions, Japhet was discharged home without any antibiotics.
45. Despite these factors, Japhet was discharged home without any anticoagulants.
46. Despite these factors, Japhet was discharged home without any oxygen therapy.
47. Japhet was discharged home without any activity restrictions or safeguards, yet designated as "guarded".
48. Japhet was discharged home without any follow up appointment by attending.
49. Japhet's only post hospitalization appointment was with his radiologist for his peri-pancreatic drainage tube.
50. Dr. Ortiz had ordered laboratory tests, but discharged Japhet home without them being carried out.
51. Japhet was discharged home without MMC having taken the samples or performed the laboratory orders.

52. Three days after being discharged, on March 4, 2017, Japhet, while in bed, experienced a sudden inability to breath, eyes rolled back, ultimately collapsing and loosing consciousness while in bed at home.
53. Japhet was rushed by ambulance to MMC, arriving at the emergency ward on March 4, 2017.
54. While at MMC's emergency ward, he decompensated with low oxygenation and was intubated.
55. Japhet was re-admitted to MMC and assigned by default to Dr. Ortiz.
56. Japhet at that time likely had suffered a pulmonary embolism (PE), as suspected by one of the treating physicians a MMC.
57. The pulmonary embolism was aggravated by the sepsis, all of which contributed to his death, the following day.
58. Laboratory samples for orders from February 28, 2017, were taken on March 5, 2017.
59. Despite Japhet's critical condition, Dr. Ortiz managed his patient by telephone, never physically seeing Japhet until after he died.
60. On March 5, 2017, Japhet died as a result of a pulmonary embolism aggravated by sepsis that ultimately caused his pulmonary and cardiac arrest.
61. Japhet's medical records at MMC appear to have been altered, which constitute spoliation of evidence.

**FIRST CAUSE OF ACTION FOR NEGLIGENCE UNDER
ARTICLE 1802 & 1803 OF THE PUERTO RICO CIVIL CODE
AGAINST MANATI MEDICAL CENTER AND ITS PERSONNEL**

62. The allegations contained above are incorporated by reference as if again fully set forth herein.

63. **MMC** has an emergency ward, radiological facilities, a hospital ward, telemetry, and intensive care unit within its hospital premises.
64. At the relevant times of this complaint, **MMC** operated or contracted to operate emergency, hospital, telemetry, radiology, intensive care, and surgery departments within its premises.
65. The hospital sets up policies, procedures and/or requirements for the treatment of the emergency, hospital, telemetry, intensive care, radiology and surgery departments within its premises.
66. **MMC** through its policies, procedures and/or requirements for hospital privileges, admitted Japhet Cancel from its emergency department to its hospital ward and assigned Dr. Ortiz to become his treating physician while at **MMC**.
67. **MMC** assigned Dr. Ortiz, who was only a family medicine doctor and not even an internal medicine physician, unqualified to treat Japhet Cancel's condition, initially and even after it was brought to **MMC**'s attention.
68. As such, **MMC** is liable for the negligent acts or omissions of Dr. Ortiz that caused damage to Plaintiff.
69. **MMC** supplies medical, nursing, clerical, administrative, and technical personnel to the emergency, hospital, telemetry, intensive care, radiology and surgery departments within its premises.
70. **MMC** derives revenue from the services provided to patients at these departments within its premises.
71. **MMC** is liable for medical malpractice occurring at the previously mentioned hospital departments located on its premises.

72. The treatment offered by **MMC** to Japhet Cancel, through its medical, nursing, technical personnel, and/or the doctors who either are employees, such as interns or have privileges who used its facilities, 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 Plaintiff the untimely death of his beloved father, Japhet Cancel, and the injuries to each, as described herein.
73. **MMC's** personnel failed to exercise the care and precautions required under the circumstances in order to prevent the loss of Japhet Cancel's life, lacked the knowledge and medical skill required to treat a patient in their care, and failed to timely have available the personnel and equipment necessary to avoid the injuries, suffering and subsequent death of Japhet Cancel.
74. **MMC** medical and hospital personnel negligently failed to provide Japhet Cancel with appropriate discharge and assessment, including the carrying out the ordered laboratory tests, order appropriate medication such as antibiotics and anticoagulants, order oxygen therapy and/or provide the equipment and order appropriate follow up on the patient's status after the lengthy hospitalization.
75. **MMC** nursing and medical personnel negligently failed to ensure Japhet was not discharged prematurely or with adequate care and medication upon discharge.
76. **MMC** nursing and medical personnel negligently failed to test, recognize or otherwise ignored the signs that Japhet Cancel was not in a condition to be discharged from MMC on February 28, 2017.
77. **MMC** nursing and medical personnel failed to use available methods to timely prevent,

diagnose and treat Japhet Cancel who was a likely candidate to develop severe sepsis due to pancreatitis.

78. At all times herein pertinent, co-Defendant **MMC**, its directors, officers, and employees and physicians with privileges were negligent in failing to provide the proper medical attention to Japhet Cancel, in failing to provide the proper supervision of co-Defendant **DR. ORTIZ** and other unknown physicians, residents and/or interns employed by and/or practicing at **MMC**, and by otherwise failing to exercise due care and caution to prevent the tortious conduct, injuries, and suffering to Plaintiff and to Japhet Cancel.
79. **MMC** not only failed to adequately supervise the Defendant physicians and/or ensure their prompt attention to the patient, but also permitted the use of its facilities by physicians with privileges, in this way allowing, encouraging, and condoning the negligent care and improper treatment of Japhet Cancel, proximately and directly causing his death as well as his and Plaintiff's injuries.
80. **MMC** offered medical services to its patients but failed to staff its hospital with the medical personnel and equipment necessary to timely, appropriately, and safely treat its patients and ensure prompt and adequate medical attention.
81. As a result of all of the above, **MMC** misled those who sought full hospital treatment into thinking that they would be appropriately treated.
82. **MMC** did not provide the timely services of persons capable of properly and effectively coordinating its departments and providing proper nursing care and diagnostic studies to Japhet Cancel.
83. As a direct and proximate result of **MMC's** lack of supervision and failure to staff its

emergency, hospital ward, telemetry and ICU units, and surgery departments with the medical personnel and personnel in charge of coordinating and communicating vital information necessary to appropriately treat emergency situations at **MMC**, **MMC** and its personnel negligently caused Plaintiff the untimely death of his father Japhet Cancel and his injuries, as described herein.

84. As a direct and proximate cause of co-Defendant **MMC** and its personnel's failure to properly treat Japhet Cancel, Plaintiff sustained severe pain and suffering and other damages, as described below.
85. As a direct and proximate cause of co-Defendant **MMC** and its personnel's failure to properly treat Japhet Cancel, he sustained severe pain and suffering and other damages, as described below, which corresponding cause of action is inherited by his heirs.

**SECOND CAUSE OF ACTION FOR NEGLIGENCE UNDER ARTICLE
1802 & 1803 OF THE PUERTO RICO CIVIL CODE AGAINST
PHYSICIAN DR. MIGUEL ORTIZ BOU**

86. The allegations contained above are incorporated by reference as if again fully set forth herein.
87. The interventions of Co-Defendant **DR. MIGUEL ORTIZ BOU** (hereinafter referred to as "Dr. Ortiz") unknown physicians and/or medical interns, residents/personnel under their supervision and independently, with Japhet Cancel while he was at **MMC**, were below the standards that satisfy 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 the premature death of Mr. Japhet Cancel and, thus, his pain and suffering as well as that of Plaintiff, as described herein.

88. Co-Defendant **DR. ORTIZ** and unknown physicians and/or medical residents/personnel under their supervision and independently, 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 they failed to provide timely treatment when received the critical laboratory values.
89. Co-Defendant **DR. ORTIZ** and unknown physicians and/or medical residents/personnel under their supervision and independently, 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 they failed to provide timely disclosure of the deteriorating conditions demonstrated by the laboratory results.
90. Co-Defendant **DR. ORTIZ**, 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, being a general practitioner and family doctor, he took on the care of a patient in Japhet Cancel's seriously complicated condition, without having the training, knowledge, expertise required, thus he failed to adequately treat and discharge, Mr. Japhet Cancel, thereby causing his suffering and death and the damages to plaintiff.
91. Co-Defendant **DR. ORTIZ** and unknown physicians and/or medical residents/personnel under their supervision and independently, 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 they failed to provide Mr. Japhet Cancel with timely assessment by multiple specialists.

92. Co-Defendant **DR. ORTIZ** and unknown physicians and/or medical residents/personnel under their supervision and independently, 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 they failed to closely observe and timely treat Mr. Japhet Cancel for his signs of infection and the sequel of pancreatitis, prior to and upon discharge.
93. Co-Defendant **DR. ORTIZ** and unknown physicians and/or medical residents/personnel under their supervision and independently, 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 properly supervise the medical students/interns and nursing care to ensure Mr. Japhet Cancel was receiving proper medical care.
94. Co-Defendant **DR. ORTIZ** and unknown physicians and/or medical residents/personnel under their supervision and independently, as well as the medical interns and the hospital's nursing and technical staff 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 they failed to provide close medical attention and monitoring, including but not limited to: promptly consulting with other specialists and providing the appropriate medical treatment and management to detect, prevent, and/or treat the blood clots, infection, respiratory insufficiency.
95. Co-Defendant **DR. ORTIZ** and other medical personnel and/or residents/interns negligently and carelessly failed to treat and properly discharge the patient in an organized, competent manner and within the acceptable standard of care.

96. As a direct and proximate cause of Co-Defendant **DR. ORTIZ** and other medical personnel's actions and omissions upon being presented with a patient in Mr. Japhet Cancel condition and with his clinical signs, Mr. Japhet Cancel was deprived of an opportunity to be promptly treated when time was of the essence and the Plaintiff, through the premature death of his father, was deprived of his happiness, love and support.
97. In so doing, Co-Defendant **ORTIZ** and other medical personnel committed professional negligence, including lack of expertise, fault and malpractice, which directly and proximately caused the suffering and death of Mr. Japhet Cancel and the damages to him and Plaintiff, as detailed herein.

**THIRD CAUSE OF ACTION FOR NEGLIGENCE UNDER
ARTICLES 1802 & 1803 OF THE PUERTO RICO CIVIL CODE
CONTINENTAL INSURANCE COMPANY**

98. The allegations contained above are incorporated by reference as if again fully set forth herein.
99. Co-Defendants CONTINENTAL INSURANCE COMPANY was at all times herein pertinent an insurance companies authorized to do business in the Commonwealth of Puerto Rico and which issued public liability and/or malpractice insurance policies on behalf of Co-Defendant, **MANATI MEDICAL CENTER (MMC)**.
100. Pursuant to 26 P.R. Laws Ann. § 2001, an insurance company is liable for the negligence or fault of its insured.
101. 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.

102. Therefore, Co-Defendants **A, B, C INSURANCE COMPANIES** are jointly and severally liable to Plaintiff for the damages caused to them and his mother by Co-Defendant (**MMC**).

**FOURTH CAUSE OF ACTION FOR NEGLIGENCE UNDER
ARTICLES 1802 & 1803 OF THE PUERTO RICO CIVIL CODE
A,B,C INSURANCE COMPANIES**

103. The allegations contained above are incorporated by reference as if again fully set forth herein.

104. Co-Defendants **A, B, C INSURANCE COMPANIES**, designated as such for not knowing their identities, were at all times herein pertinent an insurance companies authorized to do business in the Commonwealth of Puerto Rico and which issued public liability and/or malpractice insurance policies on behalf of Co-Defendant, **MANATI MEDICAL CENTER (MMC)**.

105. Pursuant to 26 P.R. Laws Ann. § 2001, an insurance company is liable for the negligence or fault of its insured.

106. 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.

107. Therefore, Co-Defendants **A, B, C INSURANCE COMPANIES** are jointly and severally liable to Plaintiff for the damages caused to them and his mother by Co-Defendant (**MMC**).

**FIFTH CAUSE OF ACTION FOR NEGLIGENCE UNDER ARTICLES
1802 & 1803 OF THE PUERTO RICO CIVIL CODE
AGAINST JOHN DOE AND JAMES ROE UNKNOWN JOINT TORTFEASORS**

108. The allegations contained above are incorporated by reference as if again fully set forth herein.

109. Co-Defendants John Doe and James Roe are so designated for lack of knowledge at this point in the proceedings.
110. Co-Defendants John Doe and James Roe's intervention in the nursing, technical or medical care of Mr. Japhet Cancel while at Co-Defendant **MMC** was below the nursing, technical and 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 Mr. Cancel's death and, thus, the pain and suffering of Mr. Japhet Cancel while hospitalized and of Plaintiff upon his premature death, as described herein.
111. Co-Defendants John Doe and James Roe negligently and carelessly, breaching the medical standard that satisfies the exigencies generally recognized by the medical profession in light of the modern means of communication and teaching, failed to do the necessary monitoring, testing and assessment of Mr. Cancel, commensurate with his reported symptoms of deterioration, and, as such, directly caused and/or contributed to causing Mr. Japhet Cancel physical injury and emotional pain, as well as his premature death and the emotional pain and suffering such death caused upon Plaintiff.
112. Co-Defendants John Doe and James Roe negligently and carelessly 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 they failed to correctly and promptly recognize and treat the patient's symptoms and condition and, thus, failed to provide a prompt, complete, thorough and adequate medical evaluation and treatment.

113. Co-Defendants John Doe and James Roe negligently and carelessly failed to promptly test, monitor, evaluate and treat Mr. Cancel's symptoms, thus denying him the provision of essential and life-saving treatment.
114. Co-Defendants John Doe and James Roe negligently and carelessly failed to provide proper care to their patient, Mr. Cancel, by failing to engage in his examination, evaluation of symptoms, and care on a timely basis, so that they did not follow up on the signs and symptoms of deterioration.
115. As a direct and proximate cause of Co-Defendants John Doe and James Roe's negligent actions and omissions upon being presented with a patient in Mr. Cancel's condition and with his clinical signs, Mr. Japhet Cancel was deprived of the opportunity to be promptly treated when time was of the essence and the Plaintiff, through the premature death of Mr. Cancel, was deprived of his companionship, camaraderie, support and love.
116. As a direct and proximate cause of Co-Defendants John Doe and James Roe's negligent actions and omissions upon being presented with a patient in Mr. Cancel's condition and with his clinical signs, Mr. Japhet Cancel was deprived of the opportunity to be promptly treated when time was of the essence and Mr. Cancel, was caused physical and emotional damages which cause of action is inherited by Plaintiff.
117. In so doing, Co-Defendants John Doe and James Roe committed professional negligence, including lack of expertise, fault and malpractice, which directly and proximately caused the death of Mr. Cancel, as detailed herein.

118. As a direct and proximate cause of Co-Defendants John Doe and James Roe's negligence in failing to properly treat Mr. Cancel, Plaintiff and Mr. Japhet Cancel sustained severe pain and suffering.

**SIXTH CAUSE OF ACTION AGAINST
THE UNKNOWN CONJUGAL PARTNERSHIPS**

119. The allegations contained above are incorporated by reference as if again fully set forth herein.

120. Upon information and belief, some of the defendant doctors were married without marriage capitulations during the events described in this complaint.

121. The activities by which the individual defendant doctors caused Plaintiff's damages were activities that benefited their respective conjugal partnerships, referred to herein as Doe-Roe Conjugal Partnerships I-X, as Plaintiff lack information as to the actual names of the respective wives and/or husbands.

122. As such, each conjugal partnership is jointly and severally liable to Plaintiff for the damages caused to them and Mr. Japhet Cancel by the individual physician Defendants.

**SEVENTH CAUSE OF ACTION FOR NEGLIGENCE UNDER
ARTICLES 1802 & 1803 OF THE PUERTO RICO CIVIL CODE
AGAINST E, F, G INSURANCE COMPANIES**

123. The allegations contained above are incorporated by reference as if again fully set forth herein.

124. Co-Defendants **E, F, G INSURANCE COMPANIES** were at all times herein pertinent insurance companies authorized to do business in the Commonwealth of Puerto Rico and which issued public liability and/or malpractice insurance policies on behalf of one or more Co-Defendants.

125. Pursuant to 26 P.R. Laws Ann. § 2001, an insurance company is liable for the negligence or fault of its insured.
126. 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.
127. Therefore, **E, F, G INSURANCE COMPANIES** are jointly and severally liable to Plaintiff for the damages caused to them by one or more Co-Defendants.
128. Therefore, Co-Defendants **E, F, G INSURANCE COMPANIES** are jointly and severally liable to Plaintiff for the damages caused to them and Mr. Japhet Cancelby any and/or all Co-Defendants, joint tortfeasors.

DAMAGES

129. The allegations contained above are incorporated herein by reference as if again fully set forth.
130. Defendants actions or omissions in prompt and aggressive treatment resulted in Japhet's severe deterioration which led to extended recovery period, increasing his as well as plaintiff's suffering during the initial month long hospitalization.
131. Patient Japhet Cancel was the father of Plaintiff, whom he loved dearly.
132. Plaintiff, Diddier Cancel was very close to his father, a person he admired, respected and dearly loved.
133. For Diddier, his father was a source of affection, often kissing and hugging him and telling him how much he loved him.
134. Japhet encouraged Diddier to fulfill his dream of pursuing a career in professional baseball, since Diddier showed great talent and received a full scholarship to study in Florida.

135. Diddier was encouraged and received emotional as well as economic support from his father to leave his home and family in Puerto Rico to go live and study in Florida, in pursuit of baseball both of their passions.
136. Diddier did leave his home and family and moved to Florida to study and train in baseball.
137. Diddier would spend as much time as he could with his father when he came to PR and visited his family in Puerto Rico.
138. Japhet would also travel to Florida to visit Diddier for special events and both cherished the time spent together.
139. Diddier suffered intense pain and anxiety when his father struggled to recover his health at MMC, to later be improperly treated and discharged.
140. On March 4, 2017, Diddier had to travel to PR on an emergency basis when Japhet returned to MMC and was able to see him alive.
141. As a result of the professional negligence, lack of expertise, fault, and malpractice of all Co-Defendants, Plaintiff unnecessarily and prematurely lost his beloved father, Japhet.
142. As a result of the professional negligence, lack of expertise, fault, and malpractice of all Co-Defendants, Plaintiff lived through the extraordinary pain and suffering of seeing his father struggle to recover and then because of medical and nursing negligence improperly discharged to again collapse, suffer, deteriorate and die an untimely death and extremely painful.
143. As a result of the professional negligence, lack of expertise, fault, and malpractice of all Co-Defendants, Patient Japhet Cancel lived through the extraordinary pain and suffering in the hospital.

144. With his father's death, Plaintiff, at a young age of 17, lost a lifelong source of love, advice and comfort.
145. Plaintiff **have** suffered dearly the unnecessary loss of his father, with whom he will not be able to share any more special moments of his life.
146. Plaintiff quality of life has been severely and permanently eviscerated as a result of his father's death, the loss of his hero and motivator.
147. Plaintiff was very close to his father and has lost his company, counsel and love for the rest of his life.
148. As a direct and proximate result of the negligence of all Defendants, Plaintiff will continue to suffer the irreparable loss of his father and his quality of life will continue to be severely affected for the rest of his life.
149. As a direct and proximate result of the negligence of all Defendants, Plaintiff have suffered and will continue to suffer an intense sense of frustration and guilt at not having been able to ensure that his father obtained proper medical care.
150. As a direct and proximate result of the negligence of all Defendants, Plaintiff **have** a sense of frustration, guilt and a deep pain that affects him daily, knowing that his death was preventable.
151. Patient Japhet Cancel suffered intense pain, suffering, and anxiety when he struggled to recover during his first hospitalization and then when readmitted in critical condition after improperly discharged by medical and nursing staff at MCC.
152. Patient Japhet Cancel suffered intense pain, suffering, and anxiety as a result of the negligence of medical and nursing staff at **MMC**.

153. As Patient Japhet Cancel heir and estate representative, Plaintiff inherits his father's cause of action for the pain and suffering he experienced during his hospitalization at MMC and which led to his premature death.

154. The acts and omissions of the Defendants have caused Plaintiff **DIDDIER CANCEL OTERO** a terrible and permanent loss, intense, emotional pain and suffering, frustration and a grave sense of injustice equal to a sum not less than **TWO MILLION DOLLARS (\$2,000,000.00)**.

155. The acts and omissions of the Defendants have caused Plaintiff **DIDDIER CANCEL OTERO** a loss of economic support calculated at no less than **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)**

156. Patient Japhet Cancel's physical and emotional pain and suffering, which is inherited by Plaintiff, as representative of his heirs, and has a reasonable value of no less than **ONE MILLION DOLLARS (\$1,000,000.00)**.

157. The total damages suffered by Plaintiff and those suffered by his father, inherited in turn by Plaintiff, have a reasonable value in excess of **THREE MILLION ONE HUNDRED THOUSAND DOLLARS (\$3,100,000.00)** including, but not limited to, Plaintiff's own past, present, and future mental and emotional pain and suffering, as well as the inherited pain and suffering experienced by his mother as described above.

TRIAL BY JURY DEMANDED

158. Plaintiff demands trial by jury on all causes of action herein raised.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demand judgment against all Defendants jointly and severally, in an amount not less than **THREE MILLION ONE HUNDRED THOUSAND**

DOLLARS (\$3,100,000.00), as well as costs incurred, reasonable attorneys' fees, and such other and further relief as this Honorable Court may deem just and proper under the law.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on this 21st day of February 2019.

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