

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

TERRE BLAIR,
*in her Individual Capacity and as Executor of
the Estate of Marvin Hamlich,*

Plaintiff,

-against-

**NEW YORK-PRESBYTERIAN HOSPITAL
AND DAVID J. COHEN, M.D.,**

Defendants.

Index No. _____

Plaintiffs designate
New York County
as the place of trial

SUMMONS

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

525 East 68th Street
New York, NY 10021

To the above-named Defendants:


YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiffs attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief of demanded in the complaint.

Venue is proper in New York County because many of the acts and events complained of originated from or took place in New York and all Defendants reside, conduct business, or have their principal place of business in New York.

A copy of this summons was filed with the Clerk of the Court, New York County,
on _____ in compliance with N.Y.C.P.L.R. §§ 305(a) and 306(b).

Dated: New York, New York
August 4, 2014

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Defendants' Addresses:

New York-Presbyterian Hospital

525 East 68th Street, New York, NY 10021

David J. Cohen, M.D.

c/o New York-Presbyterian Hospital
525 East 68th Street, New York, NY 10021

SUPREME COURT OF THE STATE OF NEW YORK
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TERRE BLAIR,
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**VERIFIED
COMPLAINT**

Plaintiff Terre Blair, by and through her undersigned counsel, brings this action on her own behalf and on behalf of her deceased husband, Marvin Hamlisch, against Defendants New York-Presbyterian Hospital (“NYPH”) and Dr. David J. Cohen and alleges upon personal knowledge as to her own acts, and upon information and belief as to all other matters, as follows:

FACTUAL ALLEGATIONS

1. Marvin Hamlisch was a renowned American composer and conductor celebrated throughout the world for his contributions to the entertainment industry.
2. This case arises from the mistreatment Mr. Hamlisch suffered while he was a patient in the care of NYPH and Dr. David J. Cohen, which ultimately led to his death.
3. Dr. Cohen was tasked with monitoring Mr. Hamlisch’s health following a kidney transplant in February 2012.
4. On or about July 2, 2012, and on numerous occasions thereafter, Ms. Blair contacted Dr. Cohen to inform him that Mr. Hamlisch was gravely ill.

5. Dr. Cohen repeatedly insisted that Mr. Hamlich's symptoms resulted from back pain and anxiety. Dr. Cohen made this diagnosis even though he did not conduct a physical examination of Mr. Hamlich between July 3, 2012 and July 30, 2012.

6. Mr. Hamlich was admitted as a patient at NYPH on July 23, 2012, after a different NYPH physician examined him and was alarmed by his appearance.

7. On July 30, 2012, Dr. Cohen returned from vacation and immediately ordered that Mr. Hamlich be discharged, again asserting that Mr. Hamlich's symptoms stemmed from back pain and anxiety. Dr. Cohen told Ms. Blair that it was "perfectly safe" for Mr. Hamlich take a five-and-a-half-hour flight to Los Angeles, California two days later.

8. Relying on Dr. Cohen's advice, Mr. Hamlich flew to Los Angeles as scheduled so that he could begin work on a score for a new movie.

9. Almost immediately after he arrived in Los Angeles, on August 1, 2012, Mr. Hamlich collapsed and slipped into a coma. Despite the efforts of paramedics and doctors to revive him, Mr. Hamlich never woke up and died five days later, on August 6, 2012.

10. Mr. Hamlich died less than one week after his discharge from NYPH, which, acting through its agents, servants, and/or employees, had dismissed Mr. Hamlich's symptoms without proper efforts to diagnose their source.

11. Mr. Hamlich was only 68 years old at the time of his death.

12. NYPH and Dr. Cohen are responsible for Mr. Hamlich's death due to their negligent conduct, including but not limited to the failure to issue a proper diagnosis, the decision to discharge him from the hospital despite tests showing a dangerously low level of magnesium and other red flags, the failure to order further treatment for his hypomagnesemia, and Dr. Cohen's advice that it was safe to travel despite Mr. Hamlich's grave illness.

13. At all relevant times described herein, the medical care provided by Dr. Cohen and NYPH, acting through its agents, servants, and/or employees, departed from good and established medical practice.

14. At the time of his death, Mr. Hamlich was in the prime of his career: he had several movie scores and Broadway shows in the works, and was the principal pops conductor for numerous symphony orchestras across the nation.

15. With the death of Mr. Hamlich, the world lost a musical icon and an irreplaceable talent, and Ms. Blair lost a beloved spouse.

PARTIES

16. Plaintiff Terre Blair is the widow of Marvin Hamlich. Prior to the commencement of this action, Ms. Blair was duly appointed as Executor of the Estate of Marvin Hamlich, deceased, by Order of the Surrogate's Court of the County of Westchester, State of New York, dated May 7, 2013.

17. At all relevant times prior to his death on August 6, 2012, Mr. Hamlich was a patient of Defendants NYPH and David J. Cohen.

18. At all relevant times, Defendant NYPH was a domestic corporation duly organized and existing and under and by virtue of the laws of the State of New York.

19. At all relevant times, Defendant NYPH was the owner of a hospital known as New York-Presbyterian Hospital, located at 622 West 168th Street, New York, NY 10032.

20. At all relevant times, Defendant NYPH operated, managed, and controlled the aforementioned New York-Presbyterian Hospital.

21. At all relevant times, Defendant David J. Cohen was a physician licensed to practice medicine in the State of New York and was an agent, servant, and/or employee of Defendant NYPH.

22. At all relevant times, all of the physicians, surgeons, and other medical personnel involved in the diagnosis, care, and treatment of decedent Marvin Hamlich at Defendant NYPH were agents, servants, and/or employees of Defendant NYPH.

JURISDICTION AND VENUE

23. This Court has jurisdiction over this action because the amount of damages sought exceeds the jurisdiction of all lower courts that would otherwise have jurisdiction.

24. This Court has personal jurisdiction over Defendant NYPH because at all relevant times, Defendant NYPH was a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

CAUSES OF ACTION

COUNT I – MEDICAL MALPRACTICE

25. Plaintiff repeats and realleges each and every allegation contained in the paragraphs above as if fully set forth herein.

26. Beginning on or about February 1, 2012, and continuing for several periods of time thereafter, decedent Marvin Hamlich was a patient at Defendant NYPH and under the medical care and diagnosis of its agents, servants, and/or employees.

27. Prior to and including August 6, 2012, decedent Marvin Hamlich was a patient of Defendant David J. Cohen, under the medical care and diagnosis of Dr. Cohen and his agents, servants, and/or employees.

28. On or about February 14, 2012, Mr. Hamlich underwent a kidney transplant that was performed by the defendants, their agents, servants, and/or employees, and thereafter – including periods of time in which Mr. Hamlich was not physically present at NYPH – Mr. Hamlich remained under the post-operative medical care of Defendants.

29. As a result of the failure of Defendants and/or their agents, servants, and/or employees to properly diagnose, care for, monitor, and treat Mr. Hamlich following his kidney transplant on February 14, 2012 – including but not limited to the failure to issue a proper diagnosis, the decision to discharge Mr. Hamlich from the hospital despite tests showing a dangerously low level of magnesium and other red flags, the failure to order further treatment for his hypomagnesia, and the advice that it was safe for him to travel despite his weakened condition – Mr. Hamlich sustained severe injuries and complications.

30. The harm Mr. Hamlich suffered was due to the carelessness and negligence of the Defendants and their agents, servants, and/or employees in failing to treat Mr. Hamlich in a good, accepted, and proper medical manner, and without any fault of care on the part of Mr. Hamlich.

31. By reason of the Defendant's conduct, Mr. Hamlich sustained severe and serious personal injuries, and was caused to suffer severe physical pain and mental anguish as a result thereof.

32. The amount of damages sought exceeds the jurisdiction of all lower courts that would otherwise have jurisdiction.

33. This action falls within exceptions to Article 16 of the C.P.L.R.

COUNT II – WRONGFUL DEATH

34. Plaintiff repeats and realleges each and every allegation contained in the paragraphs above as if fully set forth herein.

35. By reason of the carelessness and negligence of the Defendants and their agents, servants, and/or employees, the Defendants caused, precipitated, and/or hastened the death of Mr. Hamlich on or about August 6, 2012.

36. Mr. Hamlich was survived by his wife, Plaintiff Terre Blair.

37. The amount of damages sought exceeds the jurisdiction of all lower courts that would otherwise have jurisdiction.

COUNT III – LOSS OF SERVICES

38. Plaintiff repeats and re-alleges each and every allegation contained in the paragraphs above as if fully set forth herein.

39. By reason of the Defendants' conduct described above, Plaintiff Terre Blair was deprived of the services of society and companionship of her husband, from on or about February 14, 2012 until his death on August 6, 2012.

40. The amount of damages sought exceeds the jurisdiction of all lower courts that would otherwise have jurisdiction.

PRAYER FOR RELIEF

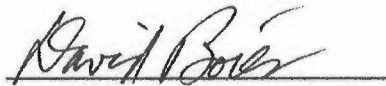
WHEREFORE, Plaintiff demands judgment as follows:

- (a) Awarding Plaintiff general and/or compensatory damages in an amount to be determined at trial for all injuries suffered as a result of Defendants' wrongdoing;
- (b) Awarding Plaintiff punitive damages;
- (c) Awarding Plaintiff pre-judgment and post-judgment interest at the maximum rate allowable by law;

- (d) Awarding Plaintiff the costs of suit as incurred in this action and attorney's fees;
and
- (e) All other relief as may be appropriate.

Dated: August 4, 2014

Respectfully submitted,



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Attorneys for Plaintiff

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VERIFICATION

Connecticut
STATE OF ~~NEW YORK~~

Fairfield
COUNTY OF ~~NEW YORK~~)

ss:

TERRE BLAIR, being duly sworn, depose and say:

I am the plaintiff in the within action; I have read the foregoing Complaint and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.

Greenwich, Connecticut
Dated: ~~New York, New York~~
August 2, 2014

Terre Blair
Terre Blair

[Signature]
MARY JANE P. HOOD
NOTARY PUBLIC
STATE OF CONNECTICUT
My Commission Expires
January 31, 2016

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**CERTIFICATE
OF MERIT**

KAREN A. CHESLEY, an attorney duly admitted to practice in the Courts of New York State, and an associate of the firm **BOIES, SCHILLER & FLEXNER LLP**, attorneys for the plaintiff in the within action, hereby affirms under penalty of perjury:

I have reviewed the facts of this case and have consulted with at least one physician who is licensed to practice medicine in the State of New York and who I reasonably believe is knowledgeable in the relevant issues involved in this matter. I have concluded on the basis of the review and the consultation that there is a reasonable basis for the commencement of this action.

Dated: New York, New York
August 4, 2014



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