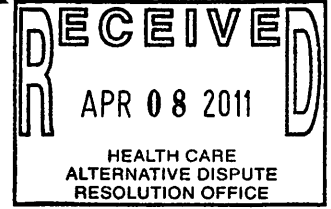


IN THE HEALTH CARE ALTERNATIVE DISPUTE RESOLUTION OFFICE  
STATE OF MARYLAND



**DARLENE KING**  
746 Silk Oak Drive  
Venice, FL 34293

**Claimant,**

**v.**

**Claim No.**

**2011-202**

**THE JOHNS HOPKINS HOSPITAL**  
600 N. Wolfe Street  
Baltimore, Maryland 21287,

**Serve:**

**Resident Agent**  
**Joanne Pollak, Esq.**  
**Administration 414**  
**600 N. Wolfe Street**  
**Baltimore, Maryland 21205**

**and**

**THE JOHNS HOPKINS HEALTH SYSTEM**  
**CORPORATION**  
600 N. Wolfe Street  
Baltimore, Maryland 21287

**Serve:**

**Resident Agent**  
**Joanne Pollak, Esq.**  
**Administration 414**  
**600 N. Wolfe Street**  
**Baltimore, Maryland 21205**

**and**

**GREGORY L. KRAUSS, M.D.**  
Johns Hopkins University, Meyer 2-147  
600 N. Wolfe Street  
Baltimore, Maryland 21287

**and**



Baltimore, Maryland, providing medical and surgical care and services to individuals, including the Claimant Darlene King.

3. Health Care Provider THE JOHNS HOPKINS HEALTH SYSTEM CORPORATION, (hereinafter also referred to as “JHHSC”) was at all times relevant hereto a Maryland Corporation doing business in Baltimore, Maryland, providing medical and surgical care and services to individuals, including the Claimant Darlene King.
4. Upon information and belief, at all times relevant herein JHHSC was also the owner of and trading as “Johns Hopkins Medicine”.
5. Upon information and belief, at all times relevant herein JHHSC was also the owner of and trading as “The Johns Hopkins University Clinical Practice Association”.
6. Upon information and belief, at all times relevant herein The Johns Hopkins University Clinical Practice Association is part of the enterprise known as Johns Hopkins Medicine.
7. At all times relevant herein JHHSC and or the Hospital owned and/or operated The Johns Hopkins University Clinical Practice Association, the physician group practice representing all the clinical departments and full time faculty physicians of the Johns Hopkins School of Medicine
8. Health Care Provider GREGORY L. KRAUSS, M.D., (hereinafter also referred to as “Dr. Krauss”) was, at all times relevant hereto, a medical doctor licensed to practice medicine in the State of Maryland, maintaining a practice of medicine and/or surgery at the Hospital, and as such, held himself out to the public as a physician well skilled in the practice of neuro-monitoring medicine and/or surgery, and derived substantial revenue from the practice of medicine and/or surgery in Baltimore, Maryland.

9. Health Care Provider BENJAMIN S. CARSON, M.D., (hereinafter also referred to as “Dr. Carson”) was, at all times relevant hereto, a medical doctor licensed to practice medicine in the State of Maryland, maintaining a practice of medicine and surgery at the Hospital, and as such, held himself out to the public as a physician well skilled in the practice of medicine and surgery, and derived substantial revenue from the practice of medicine and/or surgery in Baltimore, Maryland.
10. Health Care Provider JOHN DOE, was, at all times relevant hereto, a medical care provider licensed to practice in the State of Maryland, maintaining a practice at the Hospital, and as such, held himself out to the public as a well skilled practitioner and derived substantial revenue from his practice activities at the Hospital in Baltimore, Maryland.
11. Health Care Provider JANE DOE, was, at all times relevant hereto, a medical care provider licensed to practice in the State of Maryland, maintaining a practice at the Hospital, and as such, held herself out to the public as a well skilled practitioner and derived substantial revenue from her practice activities at the Hospital in Baltimore, Maryland.
12. At all times relevant hereto JHHSC and/or the Hospital held itself out to the public and to the Claimant as a medical institution and hospital well skilled in medical care and offering hospital and clinic facilities, care, treatment and supervision of patients according to the applicable standards of care. JHHSC and/or the Hospital also held itself out to the public and to Claimant as a medical institution and hospital which upheld high standards and offered state of the art medical care regarding the type of medical practice

- allowed within the institution and the Hospital.
13. At all times relevant herein JHHSC and/or the Hospital, through its agents, apparent agents, servants and/or employees, represented to the public and to the Claimant that it and its employees, servants, agents and apparent agents possessed the degree of skill, knowledge and ability ordinarily possessed by reasonably prudent and competent medical hospitals and clinics practicing medicine through its agents, apparent agents, servants and/or employees and owed a duty to Claimant to exercise the care, skill and judgment exercised by reasonably prudent and competent medical practitioners in treating and caring for patients.
  14. At all times relevant herein JHHSC and/or the Hospital were vicariously liable under the doctrine of *respondeat superior* for the acts and omissions of its employees, agents apparent agents or servants, including, but not limited to Johns Hopkins Medicine, The Johns Hopkins University Clinical Practice Association, Gregory L. Krauss, M.D., Benjamin S. Carson, M.D., John Doe and Jane Doe, nurses, technicians and all other health care providers who provided care and treatment to Mrs. King as set forth in this Statement of Claim.
  15. Claimant, Mrs. King in April 2008 was a 62 year old female with an eight year history of resistant left trigeminal neuralgia. Mrs. King was under the care of Dr. Carson for this condition from or about the early Spring of 2002 and had her first micro vascular decompression (MVD) surgery performed by Dr. Carson on November 4, 2002.
  16. On April 10, 2008, Mrs. King, presented to Johns Hopkins Hospital for a redo of left posterior fossa craniectomy and complex micro vascular decompression surgery of the

- trigeminal nerve to be performed by Dr. Carson.
17. During the said surgery the brainstem evoked responses and the auditory evoked potentials were monitored by or under the guidance and supervision of Dr. Krauss. The auditory evoked potentials were monitored by means of a device inserted in Mrs. King's ear canals on the left and the right side.
  18. During the surgery on April 10, 2008, Mrs. King suffered perforated ear drums in both the left and the right ear, caused by negligent placement, manipulation or removal of the monitoring devices used in her ears during the surgery.
  19. Immediately upon waking up in post anesthesia recovery, Mrs. King was aware that something was very wrong with her hearing in both ears. She also experienced bleeding from both ears. She was not aware at that time that both of her eardrums were perforated.
  20. Mrs. King's medical record signed by Dr. Carson concerning the occurrence of the ruptured tympanic membranes contains the following statement: "*The cause was never clear cut but it did occur in association with her admission for surgery.*"
  21. Upon her return to Florida Mrs. King was examined by her family physician who sent her to an otolaryngologist, Dr. Herbert Silverstein. She learned then that she had bilateral ear drum perforations and that this condition was the cause of her diminished hearing and bleeding from the ears.
  22. On May 7, 2008, Mrs. King underwent a right tympanoplasty surgery without ossicular chain reconstruction at the Sarasota Memorial Hospital in Sarasota, Florida, by Dr. Herbert Silverstein.
  23. On July 29, 2008, Mrs. King underwent a left tympanoplasty surgery with ossicular chain

- reconstruction at the Sarasota Memorial Hospital in Sarasota, Florida, by Dr. Herbert Silverstein.
24. Mrs. King underwent another left tympanoplasty on September 1, 2009 at the Cape Surgery Center in Sarasota, Florida, to repair further complications resulting from the left tympanic membrane perforation she suffered during her MVD surgery at the Hospital on April 8, 2008.
  25. In addition to the ear drum perforation, during Mrs. King's April 10, 2008, MVD surgery at the Hospital, the operative team, under the direction of Dr. Carson, negligently permitted a cloth pad or "sponge" to be left in the operative site under the dura in Mrs. King's brain.
  26. Over the course of the 20 months following the said April 2008 surgery, Mrs. King was relatively pain free until in December 2009 she again developed trigeminal neuralgia pain and eventually contacted Dr. Carson regarding the return of her symptoms.
  27. On May 5, 2010, Mrs. King underwent an MRI of her brain at a radiology center in Venice, Florida, ordered by Dr. Carson.
  28. The findings on the brain MRI were: "*an enhancing extradural mass in the left posterior fossa measuring 1.1 x 0.8 cm in transverse dimension.*" The appearance of the lesion suggested a *meningioma* tumor. A CT examination for further imaging was recommended.
  29. Prior to the MVD surgery that Mrs. King underwent in April 2008, there were no reports of any signs, symptoms or findings of tumor or tumor-like lesions on any of her radiology studies.

30. Mrs. King had another pre-operative radiology study performed on July 1, 2010, at the Hospital, which demonstrated an *“unchanged enhancing dural based nodule impressing upon the left cerebellar hemisphere with imaging suggestive of meningioma.”*
31. On July 1, 2010, Mrs. King underwent a left posterior fossa exploration and resection of dural based lesion, and complex microvascular decompression of the trigeminal nerve.
32. Prior to this surgery Dr. Carson decided *“not to use monitoring in the ears that would involve any electrodes or monitoring devices in her ears so as not to reinjure the surgically restored ears.”*
33. The results of the surgical pathology for the suspected meningioma dura base tumor specimen removed during the July 1, 2010, surgery revealed that the lesion consisted of: *“Abundant foreign material with associated foreign body giant cell reaction and calcifications. Negative for tumor.”*
34. Dr. Carson subsequently explained to Mrs. King’s family members, waiting to learn the results of the surgery, that this material was a sponge he had left in Mrs. King’s brain during the previous MVD surgery he performed on Mrs. King on April 10, 2008 and not the brain tumor they had feared.
35. Mrs. King returned to her home in Florida after this surgery, but the persistent pain in her head required that she be placed on Tegretol for pain control.
36. In or around August 2010 Mrs. King started to complain of material protruding from her skull in the area of the July 1, 2010 surgical site, causing her excruciating pain.
37. She sought the advice of Dr. Raymond Sekula, a neurosurgeon at Allegheny General Hospital in Pittsburgh, Pennsylvania, who determined that the hydroxy cement



- cranioplasty (the repair of the defect in the skull resulting from creating an opening through which her surgery was performed) had broken down and that the sharp edges of the cranioplasty were causing her severe pain.
38. On October 14, 2010, Mrs. King underwent an operation for removal of left sided suboccipital hydroxipatite cranioplasty and replacement with titanium cranioplasty.
  39. While this repair of the defective cranioplasty provided her some relief from pain in the surgical site, Mrs. King continued to complain of trigeminal neuralgia pain despite a recent MVD surgery by Dr. Carson.
  40. Mrs. King was therefore taken to the operating room again on December 9, 2010 by Dr. Sekula who redid the microvascular dissection of the trigeminal nerve at Allegheny General Hospital in Pittsburgh, during which Dr. Sekula identified and resected two other sites of significant vascular impingement on the trigeminal nerve which had not been addressed or resected by Dr. Carson.
  41. Dr. Sekula dissected the postmeatal anterior inferior cerebellar artery from the trigeminal nerve which was clearly compressing the lateral dorsal aspect of the nerve. He also dissected a branch of the superior cerebellar artery which was adherent and scarred to the nerve along its rostral and ventral length. He decompressed both loops of the superior cerebellar artery with Teflon pledgets and decompressed the postmeatal anterior inferior cerebellar artery away from the nerve with a Teflon pledget.
  42. Following the December 9, 2010 surgery by Dr. Sekula, Mrs. King's symptoms improved and she was able to discontinue taking Tegretol for control of trigeminal neuralgia pain.

**COUNT I**

**(Medical Malpractice by GREGORY L. KRAUSS, M.D.)**

Claimant Darlene King, hereby adopts and incorporates by reference herein the allegations set forth in paragraphs 1 through 42 above and further states that:

43. At all times relevant hereto Dr. Krauss owed a duty to Mrs. King to provide reasonably skillful and responsible surgical care which was within the standards of practice among members of the same health care profession, with similar training and experience, situated in the same or similar communities at the time of the incident.
44. Dr. Krauss undertook to provide and thereby assumed the duty of providing careful, competent and skillful medical and intraoperative treatment and care to Mrs. King.
45. The conduct of Dr. Krauss during the course of providing medical and intraoperative care to Mrs. King deviated from the accepted standards of medical care for a similarly trained and situated physician practicing in the same specialty of medicine, and was a proximate cause of the injuries suffered by the Claimant, Mrs. King.
46. More specifically, but not by way of limitation, Dr. Krauss deviated from the accepted standard of medical and surgical care during Mrs. King's April 10, 2008 surgery by (a) negligently placing the monitoring devices in Mrs. King's ear canals; (b) placing a monitoring device in Mrs. King's right ear which was unnecessary when the surgery she was undergoing was on the left side; (c) by failing to act appropriately to avoid injury to Mrs. King's eardrums; (d) by negligently selecting monitoring devices and/or techniques which led to bilateral eardrum perforations during surgery; (e) by failing to adequately

- supervise other persons engaged in placing, manipulating and removal of the monitoring devices in Mrs. King's ear canals to prevent injury to Mrs. King's eardrums; (f) failed to timely perform and/or obtain an appropriate consultation, timely diagnosis and appropriate and timely treatment of Mrs. King's perforated eardrums and bleeding from the ear canals bilaterally immediately after the said surgery; (g) by failing to follow the applicable standards of care in various other ways.
47. As a direct and proximate result of the aforementioned negligence of Dr. Krauss during Mrs. King's April 2008 surgery and post-surgical hospitalization, Mrs. King developed large area perforations of both eardrums, suffered repetitive bouts of severe and painful otitis media infections, required repetitive surgical repairs of the complications resulting directly and proximately from the bilateral eardrum perforations; developed a permanent hearing deficit in her left ear requiring the use of a hearing aid in the left and more likely than not requiring the use of a hearing aid in the right ear in the future; developed diminished hearing and tinnitus which is very distracting, embarrassing and causes her loss of enjoyment of life.
48. As a further direct and proximate result of the aforementioned negligence of Dr. Krauss the resulting injury to Mrs. King's ears requires her to strictly avoid getting her ears wet and precludes her from enjoying water sports, including swimming which, prior to the eardrum perforations and resulting complications, was an important part of her social activities, her physical fitness and her enjoyment of life.
49. As a direct and proximate result of the aforementioned negligence of Dr. Krauss, Mrs. King developed a permanent injury to her hearing, and will require for the rest of her life

regular and frequent visits to an otolaryngologist for checkups and specialized ear wax debridement and ear canal cleaning by a physician; will require the use of a hearing aid for the rest of her life and cause her to incur past and future medical bills and other related costs and expenses, additional surgeries to repair the deficits caused by Dr. Krauss' negligence as well as experience pain, suffering, humiliation, inconvenience and loss of enjoyment of life.

**WHEREFORE**, Claimant, Darlene King, demands from Health Care Provider Gregory L. Krauss, M.D., payment of damages in a fair and just amount which exceeds the minimum jurisdictional amount necessary for a hearing in this forum, plus attorneys' fees and costs, and such other and further relief as this forum may deem just and proper.

## **COUNT II**

### **(Medical Malpractice by BENJAMIN S. CARSON, M.D.)**

Claimant, Darlene King, hereby adopts and incorporates by reference herein the allegations set forth in paragraphs 1 through 49 above and further states that:

50. At all times relevant hereto Dr. Carson owed a duty to Mrs. King to provide reasonably skillful and responsible surgical care which was within the standards of practice among members of the same health care profession, with similar training and experience, situated in the same or similar communities at the time of the incident.
51. Dr. Carson undertook to provide and thereby assumed the duty of providing careful, competent and skillful medical and intraoperative treatment and care to Mrs. King.
52. The conduct of Dr. Carson during the course of providing medical and intraoperative care to Mrs. King deviated from the accepted standards of medical care for a similarly trained

and situated physician practicing in the same specialty of medicine, and was a proximate cause of the injuries suffered by the Claimant, Mrs. King.

53. More specifically, but not by way of limitation, Dr. Carson deviated from the accepted standard of medical and surgical care during Mrs. King's April 10, 2008 surgery by (a) negligently placing the monitoring devices in Mrs. King's ear canals; (b) placing a monitoring device in Mrs. King's right ear which was unnecessary when the surgery she was undergoing was on the left side; (c) by failing to act appropriately to avoid injury to Mrs. King's eardrums; (d) by negligently selecting monitoring devices and/or techniques which led to bilateral eardrum perforations during surgery; (e) by failing to adequately supervise other persons engaged in placing, manipulating and removal of the monitoring devices in Mrs. King's ear canals to prevent injury to Mrs. King's eardrums; (f) failed to timely perform and/or obtain an appropriate consultation, timely diagnosis and appropriate and timely treatment of Mrs. King's perforated eardrums and bleeding from the ear canals bilaterally immediately after the said surgery; (g) by negligently leaving foreign fibrous material—a gauze or sponge—in Mrs. King's subdural space during the April 10, 2008 surgery; (h) by leaving foreign material in Mrs. King's subdural space next to her brain causing it to turn into a lesion with associated foreign body giant cell reaction and calcifications mimicking a tumor; (i) by failing to adequately supervise other persons assisting Dr. Carson during surgery on April 10, 2008 to ensure that they removed and or accounted for the removal of all foreign materials (gauze and sponges) from the operative site prior to closure of the dura and performing closure cranioplasty; (j) by negligently performing a cranioplasty during the July 1, 2010 MVD surgery; (k) by

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failing to adequately resect all of the sites of vascular impingement on the trigeminal nerve that were present during the July 1, 2010 surgery; (l) by failing to follow the applicable standards of care in various other ways.

54. As a direct and proximate result of the aforementioned negligence of Dr. Carson during Mrs. King's April 2008 surgery and post-surgical hospitalization, Mrs. King developed large area perforations of both eardrums, suffered repetitive bouts of severe and painful otitis media infections, required repetitive surgical repairs of the complications resulting directly and proximately from the bilateral eardrum perforations; developed a permanent hearing deficit in her left ear requiring the use of a hearing aid in the left and more likely than not requiring the use of a hearing aid in the right ear in the future; developed diminished hearing and tinnitus which is very distracting, embarrassing and causes her loss of enjoyment of life.
55. As a further direct and proximate result of the aforementioned negligence of Dr. Carson the resulting injury to Mrs. King's ears requires her to strictly avoid getting her ears wet and precludes her from enjoying water sports, including swimming which, prior to the eardrum perforations and resulting complications, was an important part of her social activities, her physical fitness and her enjoyment of life.
56. As a direct and proximate result of the aforementioned negligence of Dr. Carson, Mrs. King developed a permanent injury to her hearing, and will require for the rest of her life regular and frequent visits to an otolaryngologist for checkups and specialized ear wax debridement and ear canal cleaning by a physician; will require the use of a hearing aid for the rest of her life and cause her to incur past and future medical bills and other

related costs and expenses, additional surgeries to repair the deficits caused by Dr. Carson's negligence as well as experience pain, suffering, humiliation, inconvenience and loss of enjoyment of life.

57. As a further direct and proximate result of the aforementioned negligence of Dr. Carson during the July 1, 2010 MVD surgery Mrs. King had to undergo two additional cranial surgeries to repair the deficits caused by Dr. Carson's negligence as well as experience pain, suffering, costs, expenses, inconvenience and loss of enjoyment of life.

**WHEREFORE**, Claimant, Darlene King, demands from Health Care Provider Benjamin S. Carson, M.D., payment of damages in a fair and just amount which exceeds the minimum jurisdictional amount necessary for a hearing in this forum, plus attorneys' fees and costs, and such other and further relief as this forum may deem just and proper.

### **COUNT III**

#### **(Medical Malpractice by JOHN DOE)**

Claimant, Darlene King, hereby adopts and incorporates by reference herein the allegations set forth in paragraphs 1 through 57 above and further states that:

58. At all times relevant hereto John Doe owed a duty to Mrs. King to provide reasonably skillful and responsible medical and/or surgical care which was within the standards of practice among members of the same health care profession, with similar training and experience, situated in the same or similar communities at the time of the incident.
59. John Doe undertook to provide and thereby assumed the duty of providing careful, competent and skillful medical and intraoperative treatment and care to Mrs. King.
60. The conduct of John Doe during the course of providing medical and intraoperative care

to Mrs. King deviated from the accepted standards of medical care for a similarly trained and situated medical practitioner practicing in the same specialty of medicine, and was a proximate cause of the injuries suffered by the Claimant, Mrs. King.

61. More specifically, but not by way of limitation, John Doe deviated from the accepted standard of medical and surgical care during Mrs. King's April 10, 2008 surgery by (a) negligently placing the monitoring devices in Mrs. King's ear canals; (b) placing a monitoring device in Mrs. King's right ear which was unnecessary when the surgery she was undergoing was on the left side; (c) by failing to act appropriately to avoid injury to Mrs. King's eardrums; (d) by negligently selecting monitoring devices and/or techniques which led to bilateral eardrum perforations during surgery; (e) by failing to adequately supervise other persons engaged in placing, manipulating and removal of the monitoring devices in Mrs. King's ear canals to prevent injury to Mrs. King's eardrums; (f) failed to timely perform and/or obtain an appropriate consultation, timely diagnosis and appropriate and timely treatment of Mrs. King's perforated eardrums and bleeding from the ear canals bilaterally immediately after the said surgery; (g) by negligently leaving foreign fibrous material—a gauze or sponge—in Mrs. King's subdural space during the April 10, 2008 surgery; (h) by leaving foreign material in Mrs. King's subdural space next to her brain causing it to turn into a lesion with associated foreign body giant cell reaction and calcifications mimicking a tumor; (i) by failing to adequately supervise other persons assisting John Doe during surgery on April 10, 2008 to ensure that they removed and or accounted for the removal of all foreign materials (gauze and sponges) from the operative site prior to closure of the dura and performing closure cranioplasty; (j) by



negligently performing a cranioplasty during the July 1, 2010 MVD surgery; (k) by failing to adequately resect all of the sites of vascular impingement on the trigeminal nerve that were present during the July 1, 2010 surgery; (l) by failing to follow the applicable standards of care in various other ways.

62. As a direct and proximate result of the aforementioned negligence of John Doe during Mrs. King's April 2008 surgery and post-surgical hospitalization, Mrs. King developed large area perforations of both eardrums, suffered repetitive bouts of severe and painful otitis media infections, required repetitive surgical repairs of the complications resulting directly and proximately from the bilateral eardrum perforations; developed a permanent hearing deficit in her left ear requiring the use of a hearing aid in the left and more likely than not requiring the use of a hearing aid in the right ear in the future; developed diminished hearing and tinnitus which is very distracting, embarrassing and causes her loss of enjoyment of life.
63. As a further direct and proximate result of the aforementioned negligence of John Doe the resulting injury to Mrs. King's ears requires her to strictly avoid getting her ears wet and precludes her from enjoying water sports, including swimming which, prior to the eardrum perforations and resulting complications, was an important part of her social activities, her physical fitness and her enjoyment of life.
64. As a direct and proximate result of the aforementioned negligence of John Doe, Mrs. King developed a permanent injury to her hearing, and will require for the rest of her life regular and frequent visits to an otolaryngologist for checkups and specialized ear wax debridement and ear canal cleaning by a physician; will require the use of a hearing aid

for the rest of her life and cause her to incur past and future medical bills and other related costs and expenses, additional surgeries to repair the deficits caused by John Doe's negligence as well as experience pain, suffering, humiliation, inconvenience and loss of enjoyment of life.

65. As a further direct and proximate result of the aforementioned negligence of John Doe during the July 1, 2010 MVD surgery Mrs. King had to undergo two additional cranial surgeries to repair the deficits caused by John Doe's negligence as well as experience pain, suffering, costs, expenses, inconvenience and loss of enjoyment of life.

**WHEREFORE**, Claimant, Darlene King, demands from Health Care Provider John Doe, payment of damages in a fair and just amount which exceeds the minimum jurisdictional amount necessary for a hearing in this forum, plus attorneys' fees and costs, and such other and further relief as this forum may deem just and proper.

#### **COUNT IV**

##### **(Medical Malpractice by JANE DOE)**

Claimant, Darlene King, hereby adopts and incorporates by reference herein the allegations set forth in paragraphs 1 through 65 above and further states that:

66. At all times relevant hereto Jane Doe owed a duty to Mrs. King to provide reasonably skillful and responsible medical and/or surgical care which was within the standards of practice among members of the same health care profession, with similar training and experience, situated in the same or similar communities at the time of the incident.
67. Jane Doe undertook to provide and thereby assumed the duty of providing careful, competent and skillful medical and intraoperative treatment and care to Mrs. King.

68. The conduct of Jane Doe during the course of providing medical and intraoperative care to Mrs. King deviated from the accepted standards of medical care for a similarly trained and situated medical practitioner practicing in the same specialty of medicine, and was a proximate cause of the injuries suffered by the Claimant, Mrs. King.
69. More specifically, but not by way of limitation, Jane Doe deviated from the accepted standard of medical and surgical care during Mrs. King's April 10, 2008 surgery by (a) negligently placing the monitoring devices in Mrs. King's ear canals; (b) placing a monitoring device in Mrs. King's right ear which was unnecessary when the surgery she was undergoing was on the left side; (c) by failing to act appropriately to avoid injury to Mrs. King's eardrums; (d) by negligently selecting monitoring devices and/or techniques which led to bilateral eardrum perforations during surgery; (e) by failing to adequately supervise other persons engaged in placing, manipulating and removal of the monitoring devices in Mrs. King's ear canals to prevent injury to Mrs. King's eardrums; (f) failed to timely perform and/or obtain an appropriate consultation, timely diagnosis and appropriate and timely treatment of Mrs. King's perforated eardrums and bleeding from the ear canals bilaterally immediately after the said surgery; (g) by negligently leaving foreign fibrous material—a gauze or sponge—in Mrs. King's subdural space during the April 10, 2008 surgery; (h) by leaving foreign material in Mrs. King's subdural space next to her brain causing it to turn into a lesion with associated foreign body giant cell reaction and calcifications mimicking a tumor; (i) by failing to adequately supervise other persons assisting Jane Doe during surgery on April 10, 2008 to ensure that they removed and or accounted for the removal of all foreign materials (gauze and sponges) from the

operative site prior to closure of the dura and performing closure cranioplasty; (j) by negligently performing a cranioplasty during the July 1, 2010 MVD surgery; (k) by failing to adequately resect all of the sites of vascular impingement on the trigeminal nerve that were present during the July 1, 2010 surgery; (l) by failing to follow the applicable standards of care in various other ways.

70. As a direct and proximate result of the aforementioned negligence of Jane Doe during Mrs. King's April 2008 surgery and post-surgical hospitalization, Mrs. King developed large area perforations of both eardrums, suffered repetitive bouts of severe and painful otitis media infections, required repetitive surgical repairs of the complications resulting directly and proximately from the bilateral eardrum perforations; developed a permanent hearing deficit in her left ear requiring the use of a hearing aid in the left and more likely than not requiring the use of a hearing aid in the right ear in the future; developed diminished hearing and tinnitus which is very distracting, embarrassing and causes her loss of enjoyment of life.
71. As a further direct and proximate result of the aforementioned negligence of Jane Doe the resulting injury to Mrs. King's ears requires her to strictly avoid getting her ears wet and precludes her from enjoying water sports, including swimming which, prior to the eardrum perforations and resulting complications, was an important part of her social activities, her physical fitness and her enjoyment of life.
72. As a direct and proximate result of the aforementioned negligence of Jane Doe, Mrs. King developed a permanent injury to her hearing, and will require for the rest of her life regular and frequent visits to an otolaryngologist for checkups and specialized ear wax

debridement and ear canal cleaning by a physician; will require the use of a hearing aid for the rest of her life and cause her to incur past and future medical bills and other related costs and expenses, additional surgeries to repair the deficits caused by Jane Doe's negligence as well as experience pain, suffering, humiliation, inconvenience and loss of enjoyment of life.

73. As a further direct and proximate result of the aforementioned negligence of Jane Doe during the July 1, 2010 MVD surgery Mrs. King had to undergo two additional cranial surgeries to repair the deficits caused by Jane Doe's negligence as well as experience pain, suffering, costs, expenses, inconvenience and loss of enjoyment of life.

**WHEREFORE**, Claimant, Darlene King, demands from Health Care Provider Jane Doe, payment of damages in a fair and just amount which exceeds the minimum jurisdictional amount necessary for a hearing in this forum, plus attorneys' fees and costs, and such other and further relief as this forum may deem just and proper.

**COUNT V**

**(Medical Malpractice and *Respondeat Superior* by THE JOHNS HOPKINS HOSPITAL)**

Claimant, Darlene King, hereby adopts and incorporates by reference herein the allegations set forth in paragraphs 1 through 73 above and further states that:

74. At all times relevant herein, the physicians, including but not limited to Dr. Krauss and Dr. Carson, nurses, technicians and all other health care providers who provided care and treatment to Mrs. King, were acting as employees, agents, apparent agents or servants of the Hospital.
75. At all times relevant herein, the Hospital was responsible for the actions of its employees,

agents, apparent agents or servants and of Johns Hopkins Medicine and The Johns Hopkins University Clinical Practice Association, under the doctrine of *respondeat superior*.

76. At all times relevant herein, the Hospital was also responsible for ensuring that it had in place appropriate protocols, guidelines or policies to protect the health and safety of its patients, including, but not limited to a protocol, guideline or policy for the prevention of injury to the ear canal and ear drum during auditory evoked potential monitoring and to ensure complete accounting for, removal and repeat counts on all sponges, gauze, and all other materials and instruments used during surgery.
77. At all times relevant herein, the Hospital was responsible to ensure that the said protocols, guidelines or policies were in existence and properly disseminated among its staff, nurses and physicians during the time frame relevant to this action, and/or that the said protocols, guidelines or policies were being followed by its employees, agents, apparent agents or servants.
78. The Johns Hopkins Hospital breached its duty to Mrs. King when, through its employees, agents, apparent agents or servants, it acted and/or failed to act as set forth in the foregoing paragraphs 1 through 77 and Counts I through IV.
79. As a direct and proximate result of the aforementioned negligence of the Hospital by its agents apparent agents, servants or employees during Mrs. King's April 2008 surgery and post-surgical hospitalization, Mrs. King developed large area perforations of both eardrums, suffered repetitive bouts of severe and painful otitis media infections, required repetitive surgical repairs of the complications resulting directly and proximately from

the bilateral eardrum perforations; developed a permanent hearing deficit in her left ear requiring the use of a hearing aid in the left and more likely than not requiring the use of a hearing aid in the right ear in the future; developed diminished hearing and tinnitus which is very distracting, embarrassing and causes her loss of enjoyment of life.

80. As a further direct and proximate result of the aforementioned negligence of the Hospital by its agents, apparent agents, servants or employees the resulting injury to Mrs. King's ears requires her to strictly avoid getting her ears wet and precludes her from enjoying water sports, including swimming which, prior to the eardrum perforations and resulting complications, was an important part of her social activities, her physical fitness and her enjoyment of life.

81. As a direct and proximate result of the aforementioned negligence of the Hospital by its agents, apparent agents, servants or employees, Mrs. King developed a permanent injury to her hearing, and will require for the rest of her life regular and frequent visits to an otolaryngologist for checkups and specialized ear wax debridement and ear canal cleaning by a physician; will require the use of a hearing aid for the rest of her life and cause her to incur past and future medical bills and other related costs and expenses, additional surgeries to repair the deficits caused by negligence of the Hospital by its agents, apparent agents, servants or employees, as well as experience pain, suffering, humiliation, inconvenience and loss of enjoyment of life.

82. As a further direct and proximate result of the aforementioned negligence of the Hospital by its agents, apparent agents, servants or employees during the July 1, 2010 MVD surgery Mrs. King had to undergo two additional cranial surgeries to repair the deficits

caused by negligence of the Hospital by its agents, apparent agents, servants or employees, as well as experience pain, suffering, costs, expenses, inconvenience and loss of enjoyment of life.

**WHEREFORE**, Claimant, Darlene King, demands from Health Care Provider The Johns Hopkins Hospital, payment of damages in a fair and just amount which exceeds the minimum jurisdictional amount necessary for a hearing in this forum, plus attorneys' fees and costs, and such other and further relief as this forum may deem just and proper.

### **COUNT VI**

#### **(Medical Malpractice and *Respondeat Superior* by THE JOHNS HOPKINS HEALTH SYSTEM CORPORATION)**

Claimant, Darlene King, hereby adopts and incorporates by reference herein the allegations set forth in paragraphs 1 through 82 above and further states that:

83. At all times relevant herein, the physicians, including but not limited to Dr. Krauss and Dr. Carson, nurses, technicians and all other health care providers who provided care and treatment to Mrs. King, were acting as employees, agents, apparent agents or servants of JHHSC.
84. At all times relevant herein, JHHSC was responsible for the actions of its employees, agents, apparent agents or servants and of Johns Hopkins Medicine and The Johns Hopkins University Clinical Practice Association, under the doctrine of *respondeat superior*.
85. At all times relevant herein, JHHSC was also responsible for ensuring that it had in place appropriate protocols, guidelines or policies to protect the health and safety of its patients, including, but not limited to a protocol, guideline or policy for the prevention of



- injury to the ear canal and ear drum during auditory evoked potential monitoring and to ensure complete accounting for, removal and repeat counts on all sponges, gauze, and all other materials and instruments used during surgery.
86. At all times relevant herein, JHHSC was responsible to ensure that the said protocols, guidelines or policies were in existence and properly disseminated among its staff, nurses and physicians during the time frame relevant to this action, and/or that the said protocols, guidelines or policies were being followed by its employees, agents, apparent agents or servants.
87. JHHSC breached its duty to Mrs. King when, through its employees, agents, apparent agents or servants, it acted and/or failed to act as set forth in the foregoing paragraphs 1 through 86 and Counts I through V.
88. As a direct and proximate result of the aforementioned negligence of JHHSC by its agents, apparent agents, servants or employees during Mrs. King's April 2008 surgery and post-surgical hospitalization, Mrs. King developed large area perforations of both eardrums, suffered repetitive bouts of severe and painful otitis media infections, required repetitive surgical repairs of the complications resulting directly and proximately from the bilateral eardrum perforations; developed a permanent hearing deficit in her left ear requiring the use of a hearing aid in the left and more likely than not requiring the use of a hearing aid in the right ear in the future; developed diminished hearing and tinnitus which is very distracting, embarrassing and causes her loss of enjoyment of life.
89. As a further direct and proximate result of the aforementioned negligence of JHHSC by its agents, apparent agents, servants or employees the resulting injury to Mrs. King's ears

requires her to strictly avoid getting her ears wet and precludes her from enjoying water sports, including swimming which, prior to the eardrum perforations and resulting complications, was an important part of her social activities, her physical fitness and her enjoyment of life.

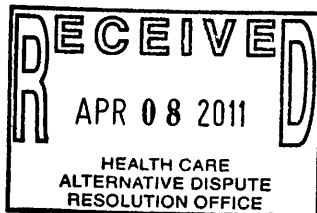
90. As a direct and proximate result of the aforementioned negligence of JHHSC by its agents, apparent agents, servants or employees, Mrs. King developed a permanent injury to her hearing, and will require for the rest of her life regular and frequent visits to an otolaryngologist for checkups and specialized ear wax debridement and ear canal cleaning by a physician; will require the use of a hearing aid for the rest of her life and cause her to incur past and future medical bills and other related costs and expenses, additional surgeries to repair the deficits caused by negligence of JHHSC by its agents, apparent agents, servants or employees, as well as experience pain, suffering, humiliation, inconvenience and loss of enjoyment of life.

91. As a further direct and proximate result of the aforementioned negligence of JHHSC by its agents, apparent agents, servants or employees during the July 1, 2010 MVD surgery Mrs. King had to undergo two additional cranial surgeries to repair the deficits caused by negligence of JHHSC by its agents, apparent agents, servants or employees, as well as experience pain, suffering, costs, expenses, inconvenience and loss of enjoyment of life.

**WHEREFORE**, Claimant, Darlene King, demands from Health Care Provider The Johns Hopkins Health system Corporation, payment of damages in a fair and just amount which exceeds the minimum jurisdictional amount necessary for a hearing in this forum, plus attorneys' fees and costs, and such other and further relief as this forum may deem

just and proper.

Respectfully submitted,



Attorney for Claimant

**CERTIFICATION OF ATTORNEY WITH OUT-OF-STATE OFFICE LOCATION**

I HEREBY CERTIFY, under penalties of perjury, that I am an attorney licensed and duly admitted to practice of law in the State of Maryland.

Attorney for Claimant