

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JOHN DOE,)	Civil Action No.:
)	
Plaintiff)	
)	
v.)	COMPLAINT AND DEMAND
)	FOR JURY TRIAL
KINAN K. HREIB, M.D., STEPHEN)	
E. SOUTHARD, M.D. and LAHEY)	
CLINIC, INC. d/b/a LAHEY)	
HOSPITAL & MEDICAL CENTER,)	
)	
Defendants)	
)	

SUMMARY OF THE CASE

1. This complaint asserts claims for medical malpractice against two physicians and the Lahey Clinic, Inc. d/b/a Lahey Hospital and Medical Center, for failure to properly and timely diagnose the Plaintiff's HIV infection resulting in the spread of the infection and permanent physical and mental damage. At the time of these events, the Plaintiff was an aspiring law student with a brilliant future who subsequently began working with the probate court in Massachusetts as a licensed attorney. As a result of the combined negligence of the Defendants, the Plaintiff has lost his career and suffered permanent damage to his health.

PARTIES

2. The Plaintiff, John Doe, is an adult who currently resides at 96 Pitt Street, New York, Manhattan County (New York County), New York 10002.
3. The Defendant, Kinan K. Hreib, M.D. ("Dr. Hreib"), was at all times relevant to this complaint a physician licensed to practice medicine in the Commonwealth of Massachusetts with a business address located at Lahey Clinic, 41 Mall Road, Burlington, Middlesex County, Massachusetts 01805.
4. The Defendant, Stephen E. Southard, M.D. ("Dr. Southard"), was at all times relevant to this complaint a physician licensed to practice medicine in the Commonwealth of Massachusetts with a business address located at Lahey Clinic, 41 Mall Road, Burlington, Middlesex County, Massachusetts 01805.

5. The Defendant, Lahey Clinic, Inc. d/b/a Lahey Hospital and Medical Center (“Lahey Clinic”), was at all times a duly authorized Corporation in the Commonwealth of Massachusetts with a business address at 41 Mall Road, Burlington, Middlesex County, Massachusetts 01805.

JURISDICTION

6. The Defendants at all relevant times were engaged in the practice of medicine in Massachusetts and are subject to the personal jurisdiction of this Court
7. The District Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 since there is complete diversity of citizenship between the Plaintiff and each Defendant and the amount in controversy exceeds \$75,000.00. Venue is proper in the District Court pursuant to 28 U.S.C. § 1391 since the Defendants are Massachusetts residents and a Massachusetts entity with their principle place of business in Burlington, Massachusetts and/or were physicians practicing medicine in Massachusetts at all relevant times.

THE FACTS

8. The Plaintiff was a patient at Lahey Clinic in Burlington and was treated between 1996 and 2010 by various physicians, including the Defendants. On or about November 14, 2006, John Doe, who was 36 years old, was seen by the Department of Psychiatry at Lahey Clinic. At that time he was evaluated by a licensed clinical social worker, Elizabeth Downs (“Ms. Downs”). A note in the medical record by Ms. Downs indicates the following:

“Mr. Doe has been feeling overwhelmed, depressed and having trouble focusing... he is in his third year of law school, attending at night... he is in the top third of his law school class and on the Law Journal... he is a ‘somewhat closeted’ gay man who is not really out to his family.”
9. On or about the same date, Mr. Doe was also evaluated by Martha Koutsos M.D. (“Dr. Koutsos”), a psychiatrist at Lahey Clinic. Dr. Koutsos indicated that Mr. Doe was suffering from some stress due to sexuality issues and that he is quite lonely due to his sexual orientation. Dr. Koutsos’ assessment was major depression, mild to moderate, recurrent.
10. On or about November 25, 2006, Mr. Doe reported to the Urgent Care Department at Lahey Clinic where he was evaluated by Claire Gibson, PA-C. At that time Mr. Doe reported concerns regarding a canker sore in his oral cavity following some sexual activity and that he wanted to be tested for syphilis. Ms. Gibson noted that Mr. Doe had a

“small canker type sore at the base of his inner lower lip without any significant surrounding erythema. There is nothing that looks like herpes. We briefly discussed STD prevention...”

11. On or about February 12, 2007, Mr. Doe saw his primary care physician at Lahey Clinic, Stephen Southard, M.D.
12. On or about May 7, 2007, Mr. Doe was again seen by Dr. Southard. At that time, Dr. Southard reported that for the past two weeks Mr. Doe had a febrile illness with some malaise joint stiffness and aches and a scattered maculopapular rash over the trunk and extremities. Suspecting the possibility of a viral infection, Dr. Southard noted that he will check Epstein-Barr viral antibodies, Cytomegalo and Parvovirus.
13. On or about May 10, 2007, Mr. Doe reported to the Emergency Department at Lahey Clinic. At that time his chief complaint as noted in the medical records was numbness and inability to shut his left eye. Additionally, he was noted to have a facial droop. During that visit Mr. Doe was diagnosed as having Bell's Palsy and he was instructed to call Dr. Southard on Monday or Tuesday for the results of the lab tests including a Lyme test that they had ordered for him and a progress report to explain his symptoms. In addition, he was instructed to tape his eye shut at bedtime. There was no etiology provided to Mr. Doe for his symptoms.
14. On or about May 22, 2007, Mr. Doe was again seen in the Emergency Department at Lahey Clinic. At that time his chief complaint was weakness with new right facial droop and dysarthria that had been present for two days with weakness and difficulty with speech. His deficits were described as moderate. During that visit the admitting diagnosis was cranial neuropathy of uncertain etiology.
15. On May 22, 2007, Mr. Doe was admitted to the neurology service at Lahey Clinic. He was seen by Dr. Hreib, a Lahey Clinic neurologist, who performed a physical examination of Mr. Doe. According to the medical notes of Dr. Hreib, he was aware Mr. Doe had been seen at Lahey Clinic Emergency Department in early April for flulike symptoms, given antibiotics and sent home. The note also indicates that the patient had been told that he had a viral illness and was sent home on his Z-pack. Dr. Hreib noted that the patient reported having muscle, ankle and hand and joint pain and stiffness; a strep test was negative. Dr. Hreib also documented that Mr. Doe's symptoms persisted and on or about May 10, 2007 he presented to the emergency room with complaints of left facial droop and difficulties with speech. He indicated that the patient had been diagnosed with Bell's palsy and sent home. Additionally, Dr. Hreib indicated the patient did not improve. At all relevant times, Dr. Hreib had access to Mr. Doe's medical records at Lahey indicating he was a gay man and that he worked as a paramedic thereby increasing the likelihood of exposure to an HIV infection.
16. After an examination by Dr. Hreib, his assessment and recommendations were that the patient presented with what appears to be a viral illness over the past several weeks with

initial unilateral facial weakness and now bilateral facial weakness of unknown etiology. Dr. Hreib noted "There is no risk of HIV, but testing will be considered, an isolated/limited form of Guillain-Barre syndrome." Dr. Hreib also indicated that the workup should include a brain MRI with contrast.

17. On or about May 22, 2007, Mr. Doe was asked to and did sign a consent form for the Human Immunodeficiency Virus (HIV) laboratory test, which was witnessed by his sister, Kristen Robishaw. Although Dr. Hreib recorded "There is no risk of HIV", but testing will be conducted, Mr. Doe had been informed by other medical personnel that his symptoms were highly suggestive of HIV infection.
18. On or about May 24, 2007, Dr. Hreib wrote a discharge summary for Mr. Doe indicating that he had a strep test, which was negative, that his liver function tests were noted to be elevated, that Mr. Doe had persisted with his symptoms and on May 10, 2007 presented to the emergency room complaining of left facial droop without sinus drainage or ear pain and that he had been diagnosed with Bell's Palsy and sent home and that two days after had developed left facial weakness. Dr. Hreib also indicated that the MRI results and the lumbar puncture for spinal fluid analysis were unremarkable, however, the patient continued with persistent bifacial weakness and at the time of the note the test for the spinal fluid was still pending. At the time of discharge, Mr. Doe was discharged by Dr. Hreib on additional doses of acyclovir and prednisone and to be followed by his primary care physician, Dr. Southard. No reasons were given to Mr. Doe to explain his symptoms.
19. On or about June 8, 2007, Mr. Doe was seen by Dr. Southard in the General Internal Medicine Department at Lahey Clinic. Mr. Doe had been out of work since May 10, 2007 and planned to go back on June 13, 2007. During this visit, Mr. Doe was informed that all his tests looked good. Based on these representations, Mr. Doe believed that this included the HIV testing recommended by Dr. Hreib and for which he had signed a consent form. Mr. Doe had requested a note for disability and to return to work from Dr. Southard. Dr. Southard wrote the note indicating that the patient was improving from his Bell's Palsy and advised him that he should recheck a Lyme titer to be sure nothing was turning positive and that they would get a C-Reactive Protein test (CRP). A CRP test is used to detect inflammation if there is a high suspicion of a tissue injury or infection somewhere in the body. Mr. Doe did not hear anything further regarding the HIV testing or any other testing.
20. On or about June 11, 2007, Mr. Doe was seen by Dr. Hreib. Although there was some improvement in his bilateral facial weakness, Dr. Hreib recorded that they were not able to find any specific explanation for Mr. Doe's symptoms or any etiology. Dr. Hreib indicated he did not need to see the patient again. Mr. Doe continued to be seen for various reasons at Lahey Clinic including folliculitis (10/31/07) and ureteritis (05/29/08).
21. After his visits with the various physicians as indicated above, Mr. Doe was advised that all of his neurological tests and lab results were negative. At that time Mr. Doe believed that an HIV test had been performed based on the consent form that he had signed and

that the HIV test was negative as well. As of this time period, no medical care provider ever advised Mr. Doe that the HIV test he consented to was never performed. At all relevant times HIV infected persons often manifested co-existing conditions such as neurological deficits, folliculitis, diarrhea and elevated uric acid levels similar to Mr. Doe's symptoms.

22. On or about May 29, 2008, Mr. Doe was seen by Dr. Thomas Bilodeau in the General Internal Medicine Department at Lahey Clinic. At that time Dr. Bilodeau indicated that Mr. Doe came in for a burning sensation in his urine for a couple of days. Dr. Bilodeau assessed Mr. Doe's problem as ureteritis and that he would treat Mr. Doe empirically with doxycycline.
23. On or about October 15, 2008, Mr. Doe was seen at Lahey Clinic complaining of unexplained left ankle pain without injury. Lab work revealed high uric acid and a diagnosis of gout. On October 21, 2008 he had unexplained diarrhea. He was seen again on November 3, 2008 and diagnosed with inflammatory arthritis of his ankle and high uric acid count. His complaints of ankle pain continued on December 16, 2008 and February 5, 2009 when he was found to have abnormal blood lab levels.
24. On or about April 30, 2009, Mr. Doe complained about an infection and irritation around his umbilicus, which was diagnosed as omphalitis, and constipation for several months. The records indicate he was worried it might be an indication of a medical problem and asked for a complete workup. Blood tests were ordered but no HIV testing was performed. Thereafter, he continued to treat for recurrent omphalitis.
25. On or about December 4, 2009, Mr. Doe was diagnosed with Herpes Zoster (shingles) and residual neuritis and it is recorded that he had a prior episode of thoracic shingles.
26. On or about December 28, 2009, Mr. Doe is seen at Lahey Clinic for abnormal gait of two month duration, has become forgetful and has poor concentration and generalized confusion.
27. On or about January 5, 2010, Mr. Doe returned to Dr. Hreib in the Neurology Department at Lahey Clinic. At that time Dr. Hreib notes that he is seeing Mr. Doe in consultation at the request of Dr. Southard for evaluation of weakness, unsteadiness, memory difficulties and difficulties in concentration. Dr. Hreib's notes indicate that approximately a year ago Mr. Doe began experiencing difficulties in concentration and memory and that his walking began to deteriorate about six weeks after he developed zoster. His note also indicates that he cannot keep track of his cases that he reviews, that he is forgetful and that sometimes he shows up for work when he is not supposed to. Additionally, the patient is noted to have difficulties coming up with the correct names or words and that despite a high-fat diet, he has lost a significant amount of weight, has developed constipation, urinary difficulties, decreased appetite and occasional headaches.
28. In his assessment Dr. Hreib indicates that Mr. Doe presented with a constellation of

symptoms and difficulties. The only abnormality noted on the recent testing was a low B12 level for which Dr. Hreib indicated he will pursue additional workup. Dr. Hreib recommended a brain image and cervical spine image with an MRI.

29. On or about January 28, 2010, Mr. Doe saw Dr. Hreib and they reviewed the test results. Since Dr. Hreib had no explanation for the symptom on this visit, Dr. Hreib spoke with Mr. Doe about the referral to Hematology/Oncology to rule out multiple sclerosis.
30. On or about January 29, 2010, Mr. Doe was seen in the Hematology/Oncology Department at Lahey Clinic. Dr. David Steinberg noted that Mr. Doe was homosexual and suggested that in addition to other tests Mr. Doe should have a test for HIV. Mr. Doe advised the physicians caring for him that he had been previously tested for HIV in 2007 and that the test was negative. However, the doctors recommended that he be retested and Mr. Doe agreed and consented to an additional HIV test.
31. After the testing, which occurred on or about January 29, 2010, Mr. Doe was informed that he was HIV-positive. This was the first time he became aware he was HIV positive. He was shocked to learn about his positive test results since he had been advised earlier that his HIV testing was negative.
32. On or about March 2, 2010, Dr. Hreib wrote a letter on behalf of Mr. Doe indicating that Mr. Doe had been seen at the Lahey Clinic for progressive cognitive decline and gait difficulties. Dr. Hreib also indicates that Mr. Doe had been ultimately diagnosed as having HIV, which he believed is the root cause of his neurological problems as well as his other systemic complaints. Dr. Hreib indicated that Mr. Doe is undergoing treatments at that time but had not shown any progress.
33. At all relevant times the Plaintiff was employed as a paramedic. In this role he was frequently exposed to patients with HIV infections and infected body fluids, including blood and medical instruments thereby increasing his likelihood of HIV exposure. The Defendants were aware of the Plaintiff's employment as a paramedic and the risks of exposure to HIV infected persons.
34. Mr. Doe discontinued his care with the Lahey Clinic. Mr. Doe obtained a copy of his medical records from Lahey Clinic and did not find any record indicating that the HIV test he was advised to have done and to which he consented had ever been performed. On or about October 5, 2010, Mr. Doe began treatment with Dr. Joseph Baker, an HIV specialist, at the Fenway Health Center. Dr. Baker subsequently informed Mr. Doe that according to his review of Lahey Clinic's medical records there had not been any HIV testing performed prior to the test in January, 2010. At that time, Mr. Doe's HIV infection was quite severe and had existed for some time allowing the infection to progress, further compromising Mr. Doe's immune system and causing permanent damage to him. Mr. Doe began a treatment plan for HIV infection with some improvement, however, he is left with permanent damage to his physical and mental health and he will continue to incur medical expenses related to his care. He has also

suffered a loss of career and loss of earning capacity.

COUNT I
NEGLIGENCE AGAINST THE DEFENDANT,
KINAN K. HREIB, M.D.

35. The Plaintiff repeats and restates the allegations contained in paragraphs 1 through 34 and incorporate said allegations herein by reference.
36. At all relevant times the Defendant, Kinan K. Hreib, M.D., held himself out to the general public as a medical provider capable of providing appropriate medical care and treatment to patients and accepted John Doe as a patient.
37. As a direct and proximate result of the negligence of the Defendant, Kinan K. Hreib, M.D., John Doe was caused to suffer pain, suffering and emotional distress, incurred medical expenses past and present, and has suffered and will continue to suffer loss of earning capacity as a result of Dr. Hreib's negligence during the course of his care and treatment from 2007 to the present.

WHEREFORE, the Plaintiff, John Doe, demands judgment against the Defendant, Kinan K. Hreib, M.D., in an amount that this Honorable Court shall deem just and proper, together with interest and costs.

COUNT II
NEGLIGENCE AGAINST THE DEFENDANT,
STEPHEN E. SOUTHARD, M.D.

38. The Plaintiff repeats and restates the allegations contained in paragraphs 1 through 37 and incorporate said allegations herein by reference.
39. At all relevant times the Defendant, Stephen E. Southard, M.D., held himself out to the general public as a medical provider capable of providing appropriate medical care and treatment to patients and accepted John Doe as a patient.
40. As a direct and proximate result of the negligence of the Defendant, Stephen E. Southard, M.D., John Doe was caused to suffer pain, suffering and emotional distress, incurred medical expenses past and future, and has suffered and will continue to suffer loss of earning capacity as a result of Dr. Southard's negligence during the course of his care and treatment from 2007 to the present.

WHEREFORE, the Plaintiff, John Doe, demands judgment against the Defendant, Stephen E. Southard, M.D., in an amount that this Honorable Court shall deem just and proper, together with interest and costs.

COUNT III
NEGLIGENCE AGAINST THE DEFENDANT,
LAHEY CLINIC, INC. d/b/a LAHEY
HOSPITAL & MEDICAL CENTER

41. The Plaintiff repeats and restates the allegations contained in paragraphs 1 through 40 and incorporate said allegations herein by reference.
42. At all relevant times the Defendant, Lahey Clinic, Inc. d/b/a Lahey Hospital and Medical Center, held itself out to the general public as a hospital capable of providing appropriate medical care and treatment to patients and accepted John Doe as a patient.
43. As a direct and proximate result of the negligence of the Defendant, Lahey Clinic, Inc. d/b/a Lahey Hospital and Medical Center, John Doe was caused to suffer pain, suffering and emotional distress, incurred medical expenses past and future, and has suffered and will continue to suffer loss of earning capacity as a result of Lahey Clinic, Inc. d/b/a Lahey Hospital and Medical Center's negligence during the course of his care and treatment from 2007 to the present.

WHEREFORE, the Plaintiff, John Doe, demands judgment against the Defendant, Lahey Clinic, Inc. d/b/a Lahey Hospital and Medical Center, in an amount that this Honorable Court shall deem just and proper, together with interest and costs.

PLAINTIFF DEMANDS TRIAL BY JURY ON ALL COUNTS.

Respectfully Submitted,
The Plaintiff,
By His Attorney,

/s/ David P. Angueira
David P. Angueira, Esq.
BBO No.: 019610
Swartz & Swartz, P.C.
10 Marshall Street
Boston, MA 01208
(617) 742-1900

Dated: January 17, 2013

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

John Doe

(b) County of Residence of First Listed Plaintiff Manhattan County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

David P. Angueira, Esq.
Swartz & Swartz, 10 Marshall Street, Boston, MA 02108
(617) 742-1900

DEFENDANTS

Kinan K. Hreib, M.D., Stephen E. Southard, M.D., Lahey Clinic, Inc.
d/b/a Lahey Hospital & Medical Center

County of Residence of First Listed Defendant Middlesex County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input checked="" type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. §1332

Brief description of cause:
Medical malpractice

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

01/17/2013

SIGNATURE OF ATTORNEY OF RECORD

/s/ David P. Angueira

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) John Doe v. Kinan K. Hreib, M.D., et al.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

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I. 410, 441, 470, 535, 830*, 891, 893, 895, R.23, REGARDLESS OF NATURE OF SUIT.

☒

II. 110, 130, 140, 160, 190, 196, 230, 240, 290, 320, 362, 370, 371, 380, 430, 440, 442, 443, 445, 446, 448, 710, 720, 740, 790, 820*, 840*, 850, 870, 871.

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III. 120, 150, 151, 152, 153, 195, 210, 220, 245, 310, 315, 330, 340, 345, 350, 355, 360, 365, 367, 368, 375, 385, 400, 422, 423, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 625, 690, 751, 791, 861-865, 890, 896, 899, 950.

*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☒Central Division ☐Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐Central Division ☐Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐NO ☐

(PLEASE TYPE OR PRINT)

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