

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO
CIVIL DIVISION

NIEAWNA RUSSELL, Individually, * **CASE NO.**
and as Legal Guardian of **JIMMY EARL** *
GAMBLIN II * **JUDGE**
201 W. Nottingham Road *
Dayton, Ohio 45405 *

Plaintiff, *

vs. *

HARRISON TOWNSHIP BOARD *
OF TRUSTEES *
5945 North Dixie Drive *
Dayton, Ohio 45414 *

COMPLAINT FOR MEDICAL
MALPRACTICE WITH JURY
DEMAND

and *

HARRISON TOWNSHIP *
5945 North Dixie Drive *
Dayton, Ohio 45414 *

and *

HARRISON TOWNSHIP FIRE *
DEPARTMENT *
5945 North Dixie Drive *
Dayton, Ohio 45414 *

and *

JOHN DOE AND/OR JANE DOE 1-5 *
Names and Addresses Unknown Despite *
Due Diligence *
5945 North Dixie Drive *
Dayton, Ohio 45414 *

and *

JOHN DOE CORPORATION 1-5	*
Names and Addresses Unknown	
Despite Due Diligence	*
5945 North Dixie Drive	
Dayton, Ohio 45414	*
Defendants.	*

Now comes Plaintiff, Nieawna Russell, Individually, and as Legal Guardian of Jimmy Earl Gamblin II, and for their causes of action against Defendants, Harrison Township Board of Trustees, Harrison Township, Harrison Township Fire Department, John Doe and/or Jane Doe 1-5, and John Doe Corporation 1-5, states the following:

BACKGROUND AND PARTIES

1. At all times relevant herein, Jimmy Earl Gamblin II (“Mr. Gamblin”) was a resident of the Harrison Township, Montgomery County, Ohio.
2. At all times relevant herein, Nieawna Russell (“Mrs. Russell”) was a resident of the Harrison Township, Montgomery County, Ohio.
3. At all times relevant herein, Mr. Gamblin and Mrs. Russell were husband and wife.
4. On July 7, 2022, Mrs. Russell was appointed as Legal Guardian of the Person and Estate of Mr. Gamblin, a legally incompetent adult, in the Probate Court of Montgomery County, Ohio, Case Number 2022 GRD 00239.
5. At all times relevant herein, Defendant, Harrison Township Board of Trustees, in their official capacity as trustees of Defendant, Harrison Township, are the Board of Trustees for Harrison Township, Montgomery County, Ohio.
6. At all times relevant herein, Defendant, Harrison Township Fire Department, was an agency of Defendant, Harrison Township Board of Trustees, wherein Defendant, Harrison

Township Board of Trustees controlled, authorized, operated, managed, and/or provided medical services through Defendant, Harrison Township Fire Department.

7. At all times relevant herein, Defendants, John Doe and/or Jane Doe 1-5, names and addresses unknown despite due diligence, were employees, representatives and/or agents working as paramedics and/or medical personnel within the course and scope of their employment with Defendants, Harrison Township Board of Trustees, Harrison Township and/or Harrison Township Fire Department.

8. At all times relevant herein, Defendants, John Doe Corporation 1-5, names and addresses known despite due diligence, were corporations or legal entities which exercised control, authorization, operation, management and/or provided medical services on behalf of Defendants, Harrison Township Board of Trustees, Harrison Township and/or Harrison Township Fire Department.

9. Whenever the terms "Defendants" is utilized within this lawsuit, such term collectively refers to and includes Defendants, Harrison Township Board of Trustees, Harrison Township, Harrison Township Fire Department, John Doe and/or Jane Doe 1-5, and John Doe Corporation 1-5.

FIRST CAUSE OF ACTION
(Willful, Wanton and/or Reckless Conduct)

10. The allegations and paragraphs set forth above are incorporated herein by reference.

11. On July 13, 2022, Mr. Gamblin, while at his residence located at 201 W. Nottingham Road, Dayton, Ohio 45414, experienced respiratory distress which necessitated Mrs. Russell to call 911 requesting paramedic and emergency medical services.

12. Upon information and belief, Defendants dispatched a team of paramedics to Mr. Gamblin's residence to assist with his respiratory distress.

13. Upon arrival at Mr. Gamblin's residence, Defendants observed Mr. Gamblin kneeling on his front porch in acute respiratory distress, non-responsive to paramedic instructions, and unable to follow basic commands.

14. Defendants were aware that Mr. Gamblin had a prior history of asthma and failed to get relief from his inhaler prior to Defendants' arrival at the residence.

15. Mr. Gamblin was experiencing obvious respiratory distress.

16. Defendants had a duty to provide timely and appropriate emergency medical attention to Mr. Gamblin.

17. Defendants willfully, wantonly and/or recklessly failed to provide timely emergency medical services to Mr. Gamblin.

18. Upon finally providing Mr. Gamblin with emergency medical services and loading him on an ambulance, Defendants proceeded to administer at least three (3) doses of naloxone HCI or Narcan® for a suspected opioid overdose while transporting him to Grandview Medical Center for further medical care.

19. As a result of Defendants' willful, wanton and/or reckless conduct, Mr. Gamblin sustained anoxic encephalopathy rendering him a quadriplegic.

20. Defendants acts or omissions described herein were willful, wanton and/or reckless.

21. As a result of Defendants' acts or omissions and wrongful conduct, Mr. Gamblin also suffered unnecessary loss of personal dignity, extreme pain and suffering, both physical and emotional, catastrophic and disabling injuries, including permanent and substantial physical disfigurement, loss of use of limbs, loss of bodily organ systems, medical expenses and lost wages.

22. The injuries described in this Complaint are a direct and proximate result of the acts or omissions set forth herein which were willful, wanton and/or reckless, singularly or in combination, which caused the injuries described above.

WHEREFORE, Nieawna Russell, as Legal Guardian of Jimmy Earl Gamblin II, and for his causes of action against Defendants, Harrison Township Board of Trustees, Harrison Township, Harrison Township Fire Department, John Doe and/or Jane Doe 1-5, and John Doe Corporation 1-5, jointly and severally, demands judgment in an amount in excess of \$25,000.00, plus punitive damages, interest, costs of this action and any other relief this Court deems fair and equitable.

SECOND CAUSE OF ACTION
(Negligence)

23. The allegations and paragraphs set forth above are incorporated herein by reference.

24. At all times relevant herein, Defendants had a duty to provide Mr. Gamblin with timely emergency medical services but failed to do so.

25. As a result of Defendants' acts or omissions and wrongful conduct, Mr. Gamblin also suffered unnecessary loss of personal dignity, extreme pain and suffering, both physical and emotion, catastrophic and disabling injuries, including permanent and substantial physical disfigurement, loss of use of limbs, loss of bodily organ systems, medical expenses and lost wages.

26. The injuries described in this Complaint are a direct and proximate result of the acts or omissions set forth herein which were willful, wanton and/or reckless, singularly or in combination, which caused the injuries described above.

WHEREFORE, Nieawna Russell, as Legal Guardian of Jimmy Earl Gamblin II, and for his causes of action against Defendants, Harrison Township Board of Trustees, Harrison

Township, Harrison Township Fire Department, John Doe and/or Jane Doe 1-5, and John Doe Corporation 1-5, jointly and severally, demands judgment in an amount in excess of \$25,000.00, plus punitive damages, interest, costs of this action and any other relief this Court deems fair and equitable.

THIRD CAUSE OF ACTION
(Consortium)

27. The allegations and paragraphs set forth above are incorporated herein by reference.

28. As the proximate result of the negligence of Defendants, Harrison Township Board of Trustees, Harrison Township, Harrison Township Fire Department, John Doe and/or Jane Doe 1-5, and John Doe Corporation 1-5, Plaintiff, Nieawna Russell, sustained the loss of services, companionship, love, affection, comforts, consortium and joys of her spouse, Jimmy Earl Gamblin II.

WHEREFORE, Nieawna Russell, Individually, and for her causes of action against Defendants, Harrison Township Board of Trustees, Harrison Township, Harrison Township Fire Department, John Doe and/or Jane Doe 1-5, and John Doe Corporation 1-5, jointly and severally, demands judgment in an amount in excess of \$25,000.00, plus punitive damages, interest, costs of this action and any other relief this Court deems fair and equitable.

FOURTH CAUSE OF ACTION
(Respondeat Superior)

29. The allegations and paragraphs set forth above are incorporated herein by reference.

30. Defendants, Harrison Township Board of Trustees, Harrison Township, Harrison Township Fire Department, and John Doe Corporation 1-5, as a result of its employees, representatives and/or agents, including John Doe and/or Jane Doe 1-5, acted willfully,

wantonly, recklessly and/or negligently, and is therefore responsible as a matter of the common law doctrine of *respondeat superior*.

31. As a direct and proximate result of the willful, wanton, reckless and/or negligent acts or omissions committed by Defendants, Harrison Township Board of Trustees, Harrison Township, Harrison Township Fire Department, and John Doe Corporation 1-5, Mr. Gamblin and Mrs. Russell incurred injuries and damages fully set forth herein.

WHEREFORE, Nieawna Russell, Individually, and as Legal Guardian of Jimmy Earl Gamblin II, and for their causes of action against Defendants, Harrison Township Board of Trustees, Harrison Township, Harrison Township Fire Department and John Doe Corporation 1-5, jointly and severally, demands judgment in an amount in excess of \$25,000.00, plus punitive damages, interest, costs of this action and any other relief this Court deems fair and equitable.

Respectfully submitted,

/s/ Jack R. Hilgeman

Jack R. Hilgeman (0086863)
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JURY DEMAND

Now comes Plaintiff, by and through counsel, and hereby demand a trial by jury on all issues of this matter.

/s/ Jack R. Hilgeman
Jack R. Hilgeman (0086863)
Attorney for Plaintiff