

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT FORT PORTAL
CIVIL SUIT NO.OF 2022

1. KEITA ZAID
2. TUMUSHIME MADIA
2. AHEBWA MOHAMMED

..... PLAINTIFFS

VERSUS

1. KITAGWENDA DISTRICT LOCAL GOVERNMENT
2. DR. KARUNGI CHRISTINE
3. KYARIKUNDA DATIVA

..... DEFENDANTS

SUMMONS TO FILE A DEFENCE

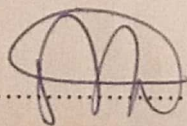
TO DFENDANTS

WHEREAS THE plaintiff has instituted a suit against you upon the claim of negligence particulars of which are set out in the plaint attached hereto.

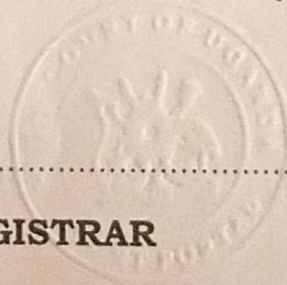
YOU ARE HEREBY required to file in this court a defence within 15 days from the date of service of summons on you in the manner prescribed manner prescribed **under order 9** of Civil Procedure Rules as amended

SHOULD YOU fail to file a defence on or before the day mentioned; the suit will be heard and determined in your absence.

GIVEN under my hand and seal of this court on thisday of2022



.....
DEPUTY REGISTRAR



THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT FORT PORTAL

CIVIL SUIT NO. 0048 OF 2022

1. KEITA ZAID
2. TUMUSHIME MADIA
3. AHEBWA MOHAMMED

VERSUS

1. KITAGWENDA DISTRICT LOCAL GOVERNMENT
2. DR. KARUNGI CHRISTINE
3. KYARIKUNDA DATIVA

PLAINT



PLAINTIFFS

DEFENDANTS

Under Ss. 5, 6, 10 Law Reform (Miscellaneous Provisions) Act cap 79

1. The Plaintiffs are male and female adult Ugandans of sound mind, biological Parents and a brother to the late Tushabe Tracy of Nyabani sub county ,Kitagwenda District whose address for the purposes of this suit shall be C/o M/s MUBIRU & ARUHO ASSOCIATED ADVOCATES, IBANDA they undertake to effect court process upon the defendants.
2. That the 1st Defendant is a local government with administrative oversight over Ntara Health Centre IV with capacity to sue and be sued.
3. That the 2nd and 3rd defendants are adult female Ugandans presumed to be of sound Mind and employees of the 1st Defendant.
4. The plaintiff's claim against the defendants is jointly and severally for Negligence causing death, whereof the plaintiffs prays for; a declaration that the defendant was negligent in causing death, loss of life, Loss of dependence, general damages, special damages, punitive damages and costs of the suit.

5. The facts constituting the cause of action against the Defendants is as follows:

- a) That Mrs. Biryomumaiso Tracy who was a biological daughter to the 1st and 2nd plaintiff used to receive her antenatal services at Ntara Health Centre IV and her last visit before she was due for delivery was on the 17th March 2022. **(Attached and Marked annexure A is her medical form from her treatment book at Ntara Health Centre IV)**
- b) That on the **29th day of March 2022 at 11am**, Mrs. Biryomumaiso Tracy (Deceased) was taken to Ntara Health Centre IV with Labor Pain, she was examined by the 3rd defendant who told her dilation was 5cm and she would give birth at around 4-5pm. She further told her that the doctor on Duty who is the 2nd defendant was not picking her calls but would have arrived by that time. **(Copy of the March 2022, duty Rota for Doctors at Ntara Health Centre iv is hereto attached and marked annexure B)**
- c) That at 4pm the 2nd Defendant who was on duty had
- d) not arrived and she was not picking her calls, the deceased had started becoming restless and had become weaker that she could not move. **(Telephone Print out showing call history to be availed during scheduling)**
- e) That at 6pm the 2nd defendant who was on duty had still not arrived, the 3rd defendant said she could not give a referral before the 2nd Defendant examined the expecting mother. The deceased was further told to wait for the 2nd Defendant.
- f) That at around 10pm when the deceased was now unconscious and the Baby's head (crowning) could be seen. The 2nd defendants' phone had gone off and the 3rd defendant started the process of referring the deceased to Kagongo Hospital.
- g) That at around mid-night the 3rd defendant prepared a referral note to Kagongo Hospital and the ambulance was called. The deceased was

unconscious and she could neither walk nor understand anything
(Copy of the referral note to Kagongo Hospital prepared by 3rd Defendant is hereto attached and marked annexure C)

- h) That despite her unconscious condition during referral there was no health worker to go with the deceased and when the deceased died the attendants struggled with the dead body in the ambulance.
- i) That as the ambulance left the Health Centre IV the expecting Mother died of excessive bleeding due to right lateral uterine rupture at a half past mid night. **(Attached is the Maternal Death audit report of Ntara Health Centre IV prepared by 2nd Defendant marked annexure D)**
- j) That the ambulance took the dead body back to Ntara Health Centre IV to their dismay and disappointment they found no health worker at the health facility to attend to them and ensure the unborn baby is safe.
- k) That later after like three (3) hours the mortuary attendant of Ntara Health Centre IV took the deceased from the Ambulance together with the unborn baby to the mortuary.
- l) That the 2nd defendant only arrived for duty at 10am the next day on the 30th March 2022 and she operated the dead mother to remove the baby who had died by that time.
- m) The 1st Defendant is vicariously liable for the death of Tracy Tushabe Biryomumaisho by virtual of being employers of the 2nd and 3rd Defendants.
- n) The 2nd and 3rd Defendants while on duty on the 29th of March 2022, neglected duty causing death of Tracy Tushabe Biryomumaisho.
- o) That the in charge Ntara Health Centre IV made a report on the cause of death of the Late Tushabe Tracy to be bleeding due to rupture of the uterus **(The In charge's report on cause of death is attached and Labeled annexure E)**

- p) That 2nd Defendant had been instructed by the Chief Administrative officer Kitagwenda District to handle and manage clinicals at Ntara health centre 1V when it's her time on duty. **(Attached and Labeled annexure F is CAO's directive dated 29th July 2021)**
- q) That the chief administrative officer has since relieved 2nd Defendant of her clinical roles at Ntara health Centre 1V after the the death of Mrs. Tracy Tushabe Biryomumaisho. **(Attached and Labeled Annexure G is CAO's directive dated 8th June 2022)**
- r) That the flagrant act of absconding, neglect and being absent from duty by the 2nd defendant from 8 am 29th March 2022 to 10am 30th March 2022 when she was the doctor on duty led to the deceased not receive the timely, immediate and emergency obstetric care that she needed hence causing her death.
- s) That there was unreasonable delay by the 3rd defendant to refer the deceased who arrived at Ntara Health Centre 1V at 11am and was referred minutes after mid-night denied the deceased timely, immediate and emergency obstetric care that she needed.
- t) That it is contended that from admission, the deceased who had an obstructed Labor condition and gestation of 39 weeks +5 days, did not receive the appropriate medical care and attention owing to the absence of the 2nd Defendant to attend to her and manage her condition and the birth of her child.
- u) That it is on account of this neglect of duty that caused death of the deceased as a patient in critical need of care and management, that this suit is brought for punitive, special and general damages against the defendants.
- v) That it is as a result of the said 2rd and 3rd defendant's negligence that the Plaintiffs have suffered loss of life and dependency from their daughter.

- w) There was breach of the minimum standards of medical care by the 2nd and 3rd Defendants who are employed by the 1st Defendant.
 - x) The plaintiffs are dependents of the deceased by virtue of being elderly and biological parents of the deceased and as such have suffered irreparable damages.
6. The plaintiffs shall aver and contend that the 2nd and 3rd defendants were and are still employees of the 1st Defendant and are jointly liable for the death of Tushabe Tracy Biryomumaisho.
 7. The Plaintiffs shall aver and contend that the deceased was there 1st born a Nurse and a mixed farmer with both cattle and crops whose income was approximated to be shs 12, 000,000 (Twelve Millions shillings only) annually from both cattle keeping and crop farming.
 8. The Plaintiffs shall aver and contend that as a result of the defendant's negligent actions, they lost a source of dependency from which they derived a livelihood.

PARTICULARS OF NEGLIGENCE

- i) The 2nd Defendant being absent from 8am on the 29th March 2022 up to 10am 30th March 2022 despite being on duty denying the deceased the timely, immediate and emergency obstetric care that she needed this is contrary to Medical ethics and Code of conduct and Ethics for Uganda Public service.
 - ii) The 3rd Defendant taking unreasonably long time without referring the deceased hence denying the deceased the timely, immediate and emergency obstetric care that she needed.
 - iii) Breaching of the minimum standards of medical care by the 2nd and 3rd Defendants who are employed by 1st defendant.
9. The plaintiff avers that the acts and omissions of the defendants largely amount to breach of duty of care owed to the deceased and the plaintiffs.

10. The plaintiffs shall aver and contend that as a result of the defendants' negligent actions, the biological parents, children and siblings of the deceased lost dependency as the deceased was their bread winner.

Particulars of Persons for Whom and on Whose Behalf this action is brought.

1. Keita Zaid a male aged 84 years, biological father of the deceased and his maintenance was being provided for by the deceased. **(Attached hereto is his national identification card marked as annexure H)**
 2. Tumusiime Madia a female aged 60 years, biological mother of the deceased and her maintenance was being provided for by the deceased. **(Attached hereto is her national identification card marked as annexure I)**
 3. Ahebwa Mohammed a male aged 25 years, biological brother of the deceased and a student at a teachers' training institute whose maintenance and school tuition was being provided for by the elder sister who is the deceased.
11. The plaintiffs shall further aver and contend that as a result of the defendants' negligence they suffered special damages.

PARTICULARS OF SPECIAL DAMAGES

1. Ambulance and other incidental bills – **shs 2,000,000**
 2. Burial expenses – **shs 10,000,000**
- Total - shs 12,000,000**

Receipts to be availed during scheduling.

12. The Plaintiffs shall aver and contend that as a result of the defendants' Negligence they suffered general damages.

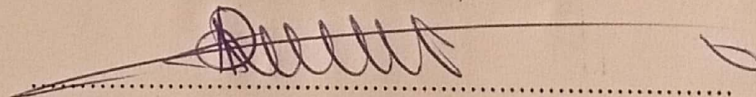
PARTICULARS OF GENERAL DAMAGES

1. Loss of financial support
2. Loss of dependency
13. Notice of intention to sue was duly communicated and served unto the defendants, but the same was ignored.
14. The cause of action arose at Ntara Health Centre IV, Kitagwenda District which is within the jurisdiction of this Honourable Court.

WHEREFORE, the plaintiff prays for judgment to be entered against the defendant for;

- a) A declaration that the acts and omissions of the defendants amounted to negligence
- b) General damages
- c) Special Damages
- d) Punitive damages
- e) Costs of the suit
- f) Any other remedy the court may deem fit

DATED at IBANDA this.....20th.....day ofJuly.....202



For: COUNSEL FOR THE PLAINTIFF

DRAWN & FILED BY:

Ms Mubiru & Aruho Associated Advocates

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THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT FORT PORTAL

CIVIL SUIT NO. 5048 OF 2022

- 1. KEITA ZAID
- 2. TUMUSHIIME MADIA
- AHEBWA MOHAMMED

PLAINTIFFS

VERSUS



- 1. KITAGWENDA DISTRICT LOCAL GOVERNMENT
- 2. DR. KARUNGI CHRISTINE
- 3. KYARIKUNDA DATIVA

DEFENDANTS

SUMMARY OF EVIDENCE

The plaintiffs will prove to court that they were dependents of the late Biryomumaisho Tracy who died due to negligence of 1st and 2nd Defendants who are employees of 3rd Defendant hence depriving them a livelihood and causing irreparable damages. Evidence to prove shall be tendered in this suit at the High Court of Uganda at Fort Portal.

LIST OF DOCUMENTS

- 1. Antenatal Medical form Record of the Late Tushabe Tracy Biryomumaisho
- 2. Ntara Health Centre IV Duty Rota as per 29th March, 2022
- 3. Telephone Print out showing call history by MTN
- 4. Copy of referral note to Kagongo hospital by kyarikunda Dativa
- 5. A copy of a directive to Dr Karungi Christine by the chief Administrative Officer instructing her to do clinical duties at Ntara Health centre 1V

6. Copy of Directive from Chief administrative officer relieving Dr Karungi Christine of her clinical duties.
7. Report of death from the in charge HCIV.
8. Notice of intention to sue/statutory notice
9. Video Recording and Voice Notes.
10. Any other with leave of court

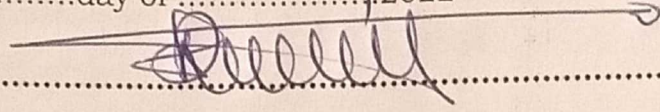
LIST OF WITNESSES

1. The plaintiffs
2. Kabagahe Jenipher
3. Professor Ben Twinomugisha-Medical –Legal Consultant and Lecturer of Health and the Law ,Makerere Law School expert witness
4. Official from MTN.
5. Enrolled Mid Wife as Expert Witness
6. Senior Medical officer as expert witness.
7. Gynecologist as expert witness.
8. The In charge Ntara Health Centre 1V
9. Others with leave of court.

LIST OF AUTHORITIES

1. Civil procedure Act cap 71
2. Civil Procedure Rules SI 71-2
3. Law reform (miscellaneous provisions) Act Cap 79
- 4 .Any other with Leave of court

Dated this 20th day of July, 2022



For COUNSEL FROM THE PLAINTIFF

DRAWN & FILED BY:

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