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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

TAMMY JARBO-BLANKENSHIP, individually,
as Personal Representative of the ESTATE of
MICHAEL P. BLANKENSHIP, deceased, and as
guardian of JEFFREY BLANKENSHIP, a minor
child,

Plaintiffs,

vs.

BARBARA L. SHELLER, DDS, a licensed
physician and healthcare provider; SOULTANA
CHATZOPOULOS, DDS, a licensed physician and
healthcare provider; SEATTLE CHILDREN'S
HOSPITAL, a Washington corporation and licensed
healthcare provider,

Defendants.

NO.
COMPLAINT FOR DAMAGES

COMES NOW the Plaintiffs TAMMY JARBO-BLANKENSHIP, individually, and in
her capacity as Personal Representative of the ESTATE OF MICHAEL P. BLANKENSHIP,
and as guardian of JEFFREY BLANKENSHIP, a minor child, and for cause of action against
the above-named defendants, states and alleges as follows:

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I. PARTIES

1.1 At all times material hereto, Plaintiff Tammy Jarbo-Blankenship was a resident of King County Washington. Plaintiff is the Personal Representative of the Estate of Michael P. Blankenship, her deceased minor child, by order of the court in King County Superior Court Cause No. 09-4-02700-2 KNT. Plaintiff Tammy Jarbo-Blankenship brings this cause of action in her individual capacity, and in her capacity as parent and legal guardian of her minor child Michael P. Blankenship (deceased) pursuant to RCW 4.24.010, and as the legal guardian of Jeffrey Blankenship, a minor child. Plaintiff also brings this action on behalf of the Estate and the Estate's beneficiaries for the wrongful death of Michael P. Blankenship pursuant to RCW 4.20 *et seq.*

1.2 Defendant Barbara L. Sheller, DDS, is believed to be a resident of King County, State of Washington. Based upon information and believe and at all times material hereto, Defendant Barbara L. Sheller, DDS, was acting as a licensed healthcare provider and as an employee and/or agent of Seattle Children's Hospital. Based upon further information and belief, Defendant Barbara L. Sheller, DDS, provided negligent health care to Michael P. Blankenship (deceased). At all times material hereto, Defendant Barbara L. Sheller, DDS, was acting within the scope of her employment and/or agency with Seattle Children's Hospital.

1.3 Defendant Soutana Chatzopoulos, DDS, is believed to be a resident of King County, State of Washington. Based upon information and believe and at all times material hereto, Defendant Soutana Chatzopoulos, DDS, was acting as a licensed physician and healthcare provider. At all times material hereto, this defendant was acting as an employee and/or agent of Seattle Children's Hospital and/or Barbara Sheller, DDS. Based upon further information and belief, Defendant Soutana Chatzopoulos, DDS, provided negligent health

1 care to Michael P. Blankenship (deceased). At all times material hereto, Defendant Soultana
2 Chatzopoulos, DDS, was acting within the scope of her employment and/or agency with Seattle
3 Children's Hospital and/or Barbara Sheller, DDS.

4 1.4 Defendant Seattle Children's Hospital ("Seattle Children's" or "Hospital") is a
5 healthcare provider and business entity incorporated under the laws of the State of Washington.
6 Said defendant is licensed by the State of Washington to provide health care services, with its
7 principal place of business located at 4800 Sand Point Way NE, Seattle, King County,
8 Washington. Employees and/or agents of Seattle Children's Hospital provided medical care to
9 Michael P. Blankenship on or about March 9, 2009.
10
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13 II. JURISDICTION AND VENUE

14 2.1 The Court has subject matter jurisdiction over this matter pursuant to
15 RCW 2.08.010.

16 2.2 All acts and omissions described herein took place in King County, Washington.

17 2.3 Venue is proper in King County pursuant to RCW 4.12.020.

18 2.4 The plaintiff has complied with RCW 4.96.020 where applicable by properly
19 serving her Claim for Damages on the defendants. More than sixty (60) days have elapsed since
20 the date of service on the appropriate defendants.
21

22 2.5 Defendants Seattle Children's Hospital and Barbara Sheller, DDS, acknowledge,
23 accept and consent to proper service of process of the plaintiffs' summons and complaint by
24 service of same on their agent and attorney John A. Rosendahl of Williams Kastner, PLLC,
25 Tacoma, Washington. These defendants have therefore consented to personal jurisdiction in the
26 above-entitled court.

1
2 III. COMPLIANCE WITH LAWS PECULIAR TO HEALTH CARE LAWSUITS

3 3.1 The plaintiffs have complied with RCW 7.70.100 by properly serving the
4 defendants with their Notice of Intent to Sue, a copy of each which is attached hereto as
5 Exhibit A. More than ninety (90) days have elapsed since the service of said Notice on the
6 defendants.
7

8 3.2 The plaintiffs have complied with RCW 7.70A.020(2) by properly serving the
9 defendants with their Declaration of Voluntary Arbitration stating that the plaintiffs have
10 elected to opt out of voluntary arbitration and seek a jury trial. A copy of said Declaration is
11 attached hereto as Exhibit B.
12

13
14 IV. FACTS

15 4.1 On March 9, 2009, Michael P. Blankenship, a fifteen-year-old boy, was
16 admitted to the dental clinic at Seattle Children's Hospital for dental treatment and/or oral
17 surgery. The attending physician and surgeon was Defendant Barbara L. Sheller, DDS. Also
18 assisting Dr. Sheller was Soultana Chatzopoulos, DDS.
19

20 4.2 Michael was affected by the behavioral disorder known as Autism, but his
21 condition and prior medical history were well known, or should have been well known, to the
22 defendants and the rest of the staff at Seattle Children's.
23

24 4.2 Michael received dental care from Dr. Sheller and other staff members at
25 Seattle Children's on other prior occasions for routine and non-routine dental work.
26

1 4.3 Because of his behavior disorder, Michael was unable or unwilling to take or
2 ingest oral medication. This fact was well known to the defendants, including the staff at
3 Seattle Children's.

4 4.4 Upon discharge following Michael's dental procedure on March 9, 2009, Dr.
5 Sheller and/or Dr. Chatzopoulos wrote and/or issued Michael a prescription for a Duragesic
6 pain patch, also known as a Fentanyl patch, to treat Michael's acute and/or intermittent pain
7 attributed to the earlier surgical procedure.
8

9 4.5 Dr. Sheller and/or Dr. Chatzopoulos had never before written or issued a
10 prescription of a Fentanyl pain patch to any other patient.
11

12 4.6 Dr. Sheller and/or Dr. Chatzopoulos were unfamiliar with Duragesic
13 medication and/or a Fentanyl pain patch, and/or were unfamiliar with the proper
14 circumstances under which this medication should or should not be prescribed to dental
15 surgery patients.

16 4.7 The Fentanyl dosage prescribed by Dr. Sheller and/or Dr. Chatzopoulos was a
17 100 microgram patch, the highest or most concentrated dosage of Fentanyl in the form of a
18 patch that is sold by the manufacturer.
19

20 4.8 Dr. Sheller and/or Dr. Chatzopoulos were unfamiliar with the correct or
21 proper dosage of Duragesic medication and/or a Fentanyl pain patch that should be
22 prescribed to any one patient.
23

24 4.9 Dr. Sheller and/or Dr. Chatzopoulos had not consulted a reliable reference
25 source, like the *Physician's Desk Reference*, or another physician or person with experience
26 in prescribing Duragesic medication, concerning whether the Fentanyl prescription and its
dosage was appropriate and safe for Michael.

1 4.10 The *Physician's Desk Reference* is a reliable and authoritative treatise or
2 reference guide for physicians when determining whether a particular medication, including a
3 Duragesic or Fentanyl pain patch, is safe and appropriate for a particular patient.

4 4.11 Michael was considered a non-opioid tolerant patient and this fact was known,
5 or should have been known, to the defendants at the time of his discharge on March 9, 2009.
6

7 4.12 Duragesic medication, including Fentanyl, is contraindicated, or should not
8 usually be prescribed, in the following situations:

- 9 a. in patients who are not opioid tolerant;
- 10 b. in the management of acute pain or in patients who require opioid
11 analgesia for a short period of time;
- 12 c. in the management of post-operative pain, including use after out-
13 patient or day surgeries;
- 14 d. in the management of mild pain;
- 15 e. in the management of intermittent pain (e.g., use on an as-needed basis
16 (prn)).
17

18 4.13 Dr. Sheller and/or Dr. Chatzopoulos ignored, or failed to inquire, whether any
19 of the contraindications for prescribing Fentanyl existed when one, or both, decided to
20 prescribe this medication to Michael.
21

22 4.14 Dr. Sheller and/or Dr. Chatzopoulos prescribed Fentanyl to Michael when
23 there were at least three (3) out of the five (5) contraindications present, further suggesting
24 that it was not appropriate or safe that Michael use this medication for post-surgery pain.
25

26 4.15 Upon receipt of the 100 mcg Fentanyl patch prescription, Tammy Jarbo-
Blankenship sought and received oral verification from Dr. Sheller, Dr. Chatzopoulos, the

1 discharge nurse and other staff members at Seattle Children's that the 100 mcg/hr Fentanyl
2 patch and dosage was accurate and safe for Michael.

3 4.16 When Tammy Jarbo-Blankenship and her fiancé Shayne Buckley filled
4 Michael's prescription at the Hospital's pharmacy, they were again informed by the hospital
5 staff pharmacist that the 100 mcg/hr Fentanyl patch was appropriate and safe for Michael.
6

7 4.17 The Hospital's head pharmacist further stated and informed Tammy and her
8 fiancé that the 100 mcg Fentanyl patch was an appropriate and safe dosage for Michael. The
9 head pharmacist further instructed Tammy and her fiancé on how to properly apply the patch
10 to Michael's back for pain relief attributed to his surgical procedure.
11

12 4.18 Later that evening, Tammy applied the 100 mcg Fentanyl patch to Michael as
13 she was instructed to do by the defendants and the head pharmacist and staff at Seattle
14 Children's Hospital.

15 4.19 The following morning on March 10, 2009 Michael was found unresponsive,
16 but semi-conscious. Paramedics were immediately called to the scene to perform life-saving
17 resuscitation efforts. Those efforts failed and Michael was pronounced dead.
18

19 4.20 Jeffrey Blankenship, age 12 at the time, was Michael's younger brother.
20 Jeffrey was present in the family home and cognizant of Michael's condition when Michael
21 was discovered in his room on the morning he died. Jeffrey was also present when the
22 resuscitative efforts on Michael failed, and when Michael was pronounced dead in the family
23 home by paramedics and other EMT personnel.
24

25 4.21 The King County Medical Examiner has determined that Michael's cause of
26 death was from a combined Fentanyl and Ketamine intoxication.

1 5.3 The defendants were negligent for breaching a duty of care owed to plaintiffs,
2 including Michael P. Blankenship, and said breach proximately caused Michael's death and
3 the plaintiff's injuries, both physical and mental, and other damages.

4 5.4 The defendants are liable to plaintiffs under the common laws and statutory
5 laws of Washington under the legal theories of failing to comply with the standard of care,
6 lack of informed consent, corporate negligence and respondeat superior.
7

8
9 VI. COUNT TWO - DAMAGES FOR WRONGFUL DEATH

10 6.1 Plaintiffs re-allege the allegations set forth in paragraphs 1.1 through 5.4, and
11 incorporate them as though fully set forth herein.
12

13 6.2 The defendants' acts and/or omissions constitute medical and corporate
14 negligence, and said negligence was a proximate cause of the wrongful death of Michael P.
15 Blankenship.

16 6.3 As a proximate cause of the defendants' medical and corporate negligence, the
17 plaintiffs have sustained economic and non-economic damages, including those allowed by
18 RCW 4.24 *et seq.* and RCW 4.20 *et seq.*, and which include without limitation, past and
19 future medical expense, past and future lost income or earning capacity, loss of consortium,
20 emotional distress, grief, loss of enjoyment of life, inconvenience, mental anguish, the
21 destruction of the parent-child relationship, and pain and suffering and in amounts to be
22 proven at trial.
23

24 6.4 As a proximate cause of the defendants' medical and corporate negligence
25 and/or tortuous conduct, the Estate of Michael P. Blankenship has sustained damages
26 including the loss of the accumulation of income and incurred medical, funeral, and burial

1 expenses, and the conscious pain, suffering, anxiety and fear of impending death experienced
2 by the decedent, in such amounts as will be proven at the time of trial together with interest
3 thereon at the statutory rate from the date of death or the date the expenses were incurred.
4

5
6 **VII. COUNT THREE - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

7 7.1 Plaintiffs re-allege the allegations set forth in paragraphs 1.1 through 6.4, and
8 incorporate them as though fully set forth herein.

9 7.2 The defendants' negligent acts and/or omissions as described herein were
10 egregious and constituted gross negligence and/or reckless conduct.
11

12 7.3 The plaintiffs were present and observed Michael at and near the time of his
13 death. Plaintiffs also observed Michael being removed from the family home in a body bag.

14 7.4 As a result of the defendants' negligent and/or reckless conduct, the plaintiffs
15 have experienced, and will continue to experience, severe emotional distress.
16

17
18 **VIII. COUNT FOUR - TORT OF OUTRAGE**

19 8.1 Plaintiffs re-allege the allegations set forth in paragraphs 1.1 through 7.4, and
20 incorporate them as though fully set forth herein.

21 8.2 The defendants' conduct of prescribing the maximum dosage of a narcotic like
22 Fentanyl to a non-opioid tolerant 15-year-old disabled patient was extreme and outrageous.
23

24 8.3 As a result of the defendants' reckless conduct, the plaintiffs suffered, and
25 continue to suffer, extreme and severe emotional distress.
26

1 IX. PHYSICIAN-PATIENT PRIVILEGE

2 Plaintiffs assert the physician-patient privilege for 89 days following the filing of this
3 complaint. On the 90th day following the filing of this complaint, the plaintiffs waive the
4 physician-patient privilege pursuant to RCW 5.60.060(4)(b). The waiver is conditioned and
5 limited as follows: The Plaintiffs (1) do not waive their constitutional right to privacy; (2) do
6 not authorize contact with their health care providers of any kind except by judicial
7 proceedings authorized by the Rules of Civil Procedure; and (3) defendants' representative
8 are specifically instructed not to attempt *ex-parte* contact with any of the plaintiffs' health
9 care providers.
10
11

12 X. PRAYER FOR RELIEF

13 WHEREFORE, the Plaintiffs pray for judgment against the Defendants, jointly and
14 severally, as follows:
15

16 1. For all damages sustained by the plaintiffs in an amount proven at trial,
17 including without limitation, all past and future economic and non-economic damages allowed
18 by RCW 4.20 *et seq.*, RCW 4.24 *et seq.*, and the common law, including the loss of the
19 accumulation of income, incurred medical, funeral, and burial expenses, loss of consortium,
20 destruction of the parent-child relationship, and the conscious pain, suffering, anxiety and fear
21 of impending death experienced by the decedent;
22

23 2. Interest calculated at the maximum amount allowable by law, including pre-
24 and post-judgment interest;
25

26 3. A reasonable attorney's fee as allowed by law;

4. Costs and disbursements pursuant to statute; and



DAVIS LAW GROUP, P.S.
A Professional Services Corporation

Christopher M. Davis
 Attorney at Law

Seattle	Bellevue
2101 Fourth Avenue	10900 NE 8th Street
Suite 630	Suite 900
Seattle, WA 98121	Bellevue, WA 98004
Phone: 206-727-4000	Phone: 425-451-1704
Fax: 206-727-4001	Fax: 425-646-0836
(Main Office)	(Appointment Only)

REPLY TO SEATTLE OFFICE

March 16, 2009

David J. Fisher, M.D.
 Seattle Children's Hospital
 4800 Sand Point Way NE
 M/S T-0111 PO Box 5371
 Seattle, WA 98105-0371

Delivered by:
 Facsimile 206.987.3830
 U.S. Mail

Re: *Tammy Jarbo-Blankenship & Michael P. Blankenship (deceased)*

Dear Dr. Fisher,

This office has been retained by Tammy Jarbo-Blankenship to pursue a medical negligence claim against Seattle Children's Hospital. This claim arises out of the treatment Seattle Children's administered to Tammy's minor son, Michael P. Blankenship, which ultimately caused Michael's death on March 10, 2009.

Please forward a copy of this letter to the appropriate person and/or professional liability carrier for handling and a response.

To comply with RCW 7.70.100(1), we are also notifying you of our client's intent to sue Seattle Children's Hospital, and its employees and agents for damages caused by the wrongful death of Michael P. Blankenship. Please understand that we will do everything possible to reach an amicable resolution with Seattle Children's or its insurance company and without the need for a lawsuit. However, if such a resolution is not possible then the time for the commencement of a lawsuit must be extended ninety days from the date you receive this notice.

We ask that you have no contact with our client. Please direct all future communications regarding this matter, including oral and written notices, to this office at our Seattle address listed above. Thank you for your attention to this matter.

Very truly yours,

DAVIS LAW GROUP, P.S.

Christopher M. Davis
 Attorney at Law

CMD/ljf
 cc: Tammy Jarbo-Blankenship

Exh. A



DAVIS LAW GROUP, P.S.
A Professional Services Corporation

Seattle
2101 Fourth Avenue
Suite 630
Seattle, WA 98121
Phone: 206-727-4000
Fax: 206-727-4001
(Main Office)

Christopher M. Davis
Attorney at Law

June 1, 2009

Ms. Sultana Chatzopoulos
1730 22nd Avenue
Apartment #W-615
Seattle, WA 98122-2981

Delivered by:

Certified US Mail
U.S. Regular Mail (copy)

Re: *Tammy Jarbo-Blankenship & Michael P. Blankenship (deceased)*

Dear Ms. Sultana Chatzopoulos,

This office has been retained by Tammy Jarbo-Blankenship to pursue a medical negligence claim against you and Seattle Children's Hospital. This claim arises out of the treatment that you and Seattle Children's negligently administered to Tammy's minor son, Michael P. Blankenship, which ultimately caused Michael's death on March 10, 2009.

If you were not employed by Seattle Children's when this incident occurred, then please forward a copy of this letter to your employer and/or your professional liability carrier for handling and a response.

To comply with RCW 7.70.100(1), we are also notifying you of our client's intent to sue you, Seattle Children's Hospital and its employees and agents for damages caused by the wrongful death of Michael P. Blankenship. Please understand that we will do everything possible to reach an amicable resolution with you and/or Seattle Children's or the insurance companies involved. However, if such a resolution is not possible then we may file a lawsuit against you and all other responsible parties involved.

Please have no contact with our client. Please direct all future communications regarding this matter, including oral and written notices, to this office at our Seattle address listed above. Thank you for your attention to this matter.

Very truly yours,

DAVIS LAW GROUP, P.S.

Christopher M. Davis
Attorney at Law

CMD/ljf
cc: Tammy Jarbo-Blankenship

Exh. A



DAVIS LAW GROUP, P.S.
A Professional Services Corporation

Seattle
2101 Fourth Avenue
Suite 630
Seattle, WA 98121
Phone: 206-727-4000
Fax: 206-727-4001
(Main Office)

Christopher M. Davis
Attorney at Law

June 3, 2009

Risk Management Division for State of
Washington
300 General Administration Bldg
PO Box 41027, MS: 41027
Olympia, WA 98504-1027

Delivered by:
Legal Messenger
U.S. Mail

Re: *Tammy Jarbo-Blankenship & Michael P. Blankenship (deceased)*

Dear Sir/Madam:

This office has been retained by Tammy Jarbo-Blankenship to pursue a medical negligence claim against the State of Washington and the University of Washington Medical Center, including its employees, residents and agents, and specifically its dental resident Soutana Chatzopoulos. This claim arises out of the medical treatment administered to Tammy's minor son, Michael P. Blankenship, on March 9, 2009 and which ultimately caused Michael's death on March 10, 2009.

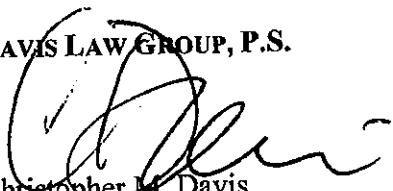
Being served on you with this letter are two (2) claim forms pursuant to RCW 4.92 *et seq.*

To comply with RCW 7.70.100(1), we are also notifying you of our client's intent to sue State of Washington and the University of Washington Medical Center, including its employees, residents and agents, and specifically its dental resident Soutana Chatzopoulos, for damages caused by the wrongful death of Michael P. Blankenship.

Please direct all future communications regarding this matter, including oral and written notices, to this office at our Seattle address listed above. Thank you for your attention to this matter.

Very truly yours,

DAVIS LAW GROUP, P.S.


Christopher M. Davis
Attorney at Law

CMD/ljf
Enclosures
cc: Tammy Jarbo-Blankenship

Exh. A



DAVIS LAW GROUP, P.S.
A Professional Services Corporation

Seattle
2101 Fourth Avenue
Suite 630
Seattle, WA 98121
Phone: 206-727-4000
Fax: 206-727-4001
(Main Office)

Christopher M. Davis
Attorney at Law

June 8, 2009

Thomas N. Hansen, M.D.
Chief Executive Officer
Seattle Children's Hospital
4800 Sand Point Way NE
M/S T-0111 Medical Administration
Seattle, WA 98105

Delivered by:

U.S. Mail

Re: *Tammy Jarbo-Blankenship & Michael P. Blankenship (deceased)*

Dear Dr. Hansen,

This office has been retained by Tammy Jarbo-Blankenship to pursue a medical negligence claim against Seattle Children's Hospital, Barbara L. Sheller, M.D. and other unknown staff members involved in the care of Michael P. Blankenship. This claim arises out of the treatment Seattle Children's administered to Tammy's minor son, Michael P. Blankenship, which ultimately caused Michael's death on March 10, 2009.

In accordance with RCW 7.70.100(1), we are notifying you of our client's intent to sue Seattle Children's Hospital, Dr. Sheller, and the other employees and agents involved for damages caused by the wrongful death of Michael P. Blankenship. Please understand that we will do everything possible to reach an amicable resolution with Seattle Children's and without the need for a lawsuit.

Please direct all future communications regarding this matter, including oral and written notices, to this office at our Seattle address listed above. Thank you for your attention to this matter.

Very truly yours,

DAVIS LAW GROUP, P.S.

Christopher M. Davis
Attorney at Law

CMD/ljf
cc: Jeffrey M. Sconyers, Sr. V.P. and General Counsel

Exh. A

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

TAMMY JARBO-BLANKENSHIP, individually,
as Personal Representative of the ESTATE of
MICHAEL P. BLANKENSHIP, deceased, and as
guardian of JEFFREY BLANKENSHIP, a minor
child,

Plaintiffs,

vs.

BARBARA L. SHELLER, DDS, a licensed
physician and healthcare provider; SOULTANA
CHATZOPOULOS, DDS, a licensed physician
and healthcare provider; SEATTLE
CHILDREN'S HOSPITAL, a Washington
corporation and licensed healthcare provider,

Defendants.

NO.

DECLARATION OF PLAINTIFFS
REGARDING VOLUNTARY
ARBITRATION
(RCW 7.70A.020)

The undersigned hereby declares or certifies under penalty of perjury under the laws
of the State of Washington that:

1. I am the plaintiff in the above-entitled lawsuit. I bring this lawsuit in my individual capacity, in my capacity as Personal Representative of the Estate of Michael P. Blankenship, and in my capacity as legal guardian of my son Jeffrey Blankenship, a minor child.
2. I am the mother and guardian of Michael P. Blankenship (deceased) and Jeffrey Blankenship, minor.

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3. I have read the provisions of the Voluntary Arbitration Act, a copy of which is attached hereto.

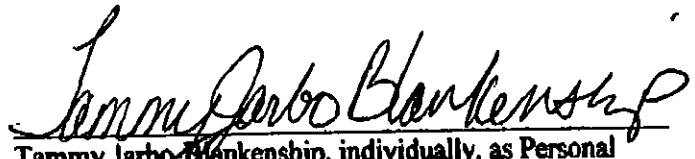
4. My lawyer has answered my questions about the Act.

5. I hereby make the following election as required by the Act:

I hereby elect to opt into the Voluntary Arbitration Act recognizing there is a \$1 million limit on any recovery.

I hereby elect to opt out of the Voluntary Arbitration Act and try my case to a jury.

Dated at Seattle, WA on this 14 day of September, 2009.



Tammy Jarbo Blankenship, individually, as Personal Representative of the Estate of Michael P. Blankenship, and as guardian of Jeffrey Blankenship, a minor child, Plaintiffs

7.70A.020. Election to submit to arbitration - Procedures.

(1) Parties in an action covered under RCW 7.70A.010 may elect to submit the dispute to arbitration under this chapter in accordance with the requirements in this section.

(a) A claimant may elect to submit the dispute to arbitration under this chapter by including such election in the complaint filed at the commencement of the action. A defendant may elect to submit the dispute to arbitration under this chapter by including such election in the defendant's answer to the complaint. The dispute will be submitted to arbitration under this chapter only if all parties to the action elect to submit the dispute to arbitration.

(b) If the parties do not initially elect to submit the dispute to arbitration in accordance with (a) of this subsection, the parties may make such an election at any time during the pendency of the action by filing a stipulation with the court in which all parties to the action agree to submit the dispute to arbitration under this chapter.

(2) A party that does not initially elect to submit a dispute to arbitration under this chapter must file a declaration with the court that meets the following requirements:

(a) In the case of a claimant, the declaration must be filed at the time of commencing the action and must state that the attorney representing the claimant presented the claimant with a copy of the provisions of this chapter before commencing the action and that the claimant elected not to submit the dispute to arbitration under this chapter; and

(b) In the case of a defendant, the declaration must be filed at the time of filing the answer and must state that the attorney representing the defendant presented the defendant with a copy of the provisions of this chapter before filing the defendant's answer and that the defendant elected not to submit the dispute to arbitration under this chapter.

[2006 c 8 § 306.]

Editor's Notes. Pursuant to Wa. Const., Art. II, § 41, this section took effect June 7, 2006.