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OF ORIGINAL FILED**  
Los Angeles Superior Court

MAR 22 2011

John A. Clarke, Executive Officer/Clerk  
By *[Signature]*, Deputy  
A.E. LaFLEUR-CLAYTON

Attorneys for Plaintiffs  
LINDA DE ROGATIS AND PETER DE ROGATIS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

**BC457891**

LINDA DE ROGATIS, individually and as  
successor-in-interest to Tara De Rogatis, and  
PETER DE ROGATIS, individually and as  
successor-in-interest to Tara De Rogatis,

Plaintiffs,

v.

KAREN MICHELLE SHAINSKY, D.O. and  
DOES 1 through 25 inclusive,

Defendants.

Case No.:

**COMPLAINT FOR DAMAGES FOR:**

- (1) Medical Malpractice – Professional Negligence**
- (2) Negligence; and**
- (3) Wrongful Death**

**JURY TRIAL DEMANDED**

Plaintiffs LINDA DE ROGATIS AND PETER DE ROGATIS (“Plaintiffs”),  
individually and as successors-in-interest to TARA DE ROGATIS, for causes of action against  
Defendant KAREN MICHELLE SHAINSKY, D.O. (“Dr. Shainsky”) and DOES 1 through 25  
(collectively “Defendants”), allege as follows:

**I.**

**PARTIES**

1. Plaintiffs are, and at all times mentioned in this Complaint were, individuals  
residing in the State of New Jersey. They are TARA DE ROGATIS’S (“Tara’s”) parents. Tara

1 died on March 23, 2010 at the age of 30 by overdosing on prescription medications. At the  
2 time of her death, Tara resided in the State of California, County of Los Angeles. Tara was not  
3 married nor did she have any children. Accordingly, Plaintiffs are Tara's intestate successors.  
4 As surviving parents, Plaintiffs bring this action on their behalf individually and as Tara's  
5 successors-in-interest.

6 2. Plaintiff LINDA DE ROGATIS ("Linda") is the administrator of Tara's estate,  
7 which is located in Los Angeles, California. Accordingly, Linda is Tara's personal  
8 representative and may commence the present action against Defendants on Tara's behalf.

9 3. Dr. Shainsky is, and at all times mentioned in this Complaint was, a physician  
10 licensed by the Osteopathic Medical Board of California (License No. 20A8489) as an  
11 osteopathic physician and surgeon since 2003 and engaged in the practice of medicine,  
12 specifically internal medicine and rheumatology, in the State of California, County of Los  
13 Angeles.

14 4. The true names and capacities, whether individual, corporate, associate, or  
15 otherwise of Defendants named herein as DOES 1 through 25, inclusive, are unknown to  
16 Plaintiffs at the time of filing this Complaint, and therefore, Plaintiffs sue said Defendants by  
17 fictitious names. Plaintiffs are informed and believe and based thereon allege that Defendants  
18 DOES 1 through 25, and each of them, are legally responsible to Plaintiffs for the relief sought  
19 herein and/or are necessary parties to this litigation. Plaintiffs will ask for leave to amend this  
20 Complaint to state the true names and capacities of DOES 1 through 25 when they have  
21 ascertained the same.

22 5. At all times mentioned herein, Defendants, and each of them, were the agents,  
23 servants, employers, employees, partners and/or joint venturers of the remaining Defendants,  
24 and at all times, were acting within the scope and course of such agency, employment,  
25 partnership, or joint venture.

26 6. Plaintiffs are informed and believe, and hereby allege, that Does 1 through 10,  
27 inclusive, at all relevant times, were physicians duly licensed to practice medicine in the State  
28 of California and engaged in doing business in Los Angeles County, California.





1 existed between Dr. Shainsky and Tara. This relationship gave rise to a duty on Dr. Shainsky's  
2 part to exercise at least that degree of skill and care deemed proper by other physicians in  
3 similar circumstances.

4 13. From approximately February 10, 2010 through March 22, 2010, Dr. Shainsky  
5 treated Tara for chronic pain. At her first medical appointment, on February 10, 2010, Tara  
6 informed Dr. Shainsky that she had been suffering from excruciating pain throughout her body  
7 for approximately two years and that symptoms had worsened over the past two months. Tara  
8 also told Dr. Shainsky that she felt relief when she took Norco, a prescription drug containing  
9 hydrocodone and acetaminophen. Tara further advised Dr. Shainsky that she was under  
10 psychiatric care for a mood disorder and suffered from anxiety.

11 14. At the February 10, 2010 medical appointment, Dr. Shainsky diagnosed Tara with  
12 fibromyalgia. Fibromyalgia is a disorder characterized by widespread musculoskeletal pain  
13 accompanied by fatigue, sleep, memory and mood issues. Dr. Shainsky advised Tara about  
14 managing her fibromyalgia and discouraged Tara from using narcotics, such as Norco, to  
15 relieve pain. Dr. Shainsky recommended that Tara take the prescription drug, Cymbalta 30 mg,  
16 and undergo pool therapy for medical treatment. Additionally, Dr. Shainsky administered 20  
17 mg of Depo-Medrol and 10 cc of lidocaine to Tara's cervical trigger points.

18 15. On March 1, 2010, Tara had a follow-up appointment with Dr. Shainsky. At that  
19 appointment, Tara reported some improvement in the two weeks following the trigger point  
20 injections, but told Dr. Shainsky that currently she was experiencing pain throughout her body.  
21 Dr. Shainsky again administered injections of Depo-Medrol and lidocaine to Tara's cervical  
22 trigger points and recommended Tara return in four weeks for a follow up appointment.

23 16. Following the March 1, 2010 appointment, Dr. Shainsky received a copy of a  
24 neurology report from Carl Orfuss, M.D., concerning his examination of Tara. In his report,  
25 Dr. Orfuss stated that a psychiatrist had referred Tara to him because Tara was experiencing  
26 altered memory and auditory hallucinations.

27 17. Approximately three weeks later, on March 22, 2010, Tara went to Dr.  
28 Shainsky's office with her fiancé, David MacEachern ("David"), complaining again of pain.



1 While in Dr. Shainsky's office and in Dr. Shainsky's presence, Tara stated: "I'm in so much  
2 pain that I want to kill myself." Shocked by Tara's statement, Dr. Shainsky excused herself to  
3 make a call to Tara's treating psychiatrist, Dr. Paul Bohn. Dr. Shainsky left Dr. Bohn a voice  
4 message regarding Tara's statement that she wanted to "kill" herself and requested that he call  
5 her back. Dr. Shainsky provided Dr. Bohn with her office and cellular telephone numbers.

6 18. After returning to the examining room, Dr. Shainsky discussed with Tara and  
7 David Tara's poor mental health and her current psychiatric medications. Tara informed Dr.  
8 Shainsky that currently she was taking Klonopin, Norco, Synthroid, Cymbalta, Trazadone,  
9 Strattera, Levothyroxine and Cytomel. During that conversation, David informed Dr. Shainsky  
10 that in December 2009, Tara attempted suicide by ingesting prescription medications and that  
11 Tara's statement regarding wanting to kill herself should be taken seriously.

12 19. Notwithstanding this critical information, Dr. Shainsky not only failed to take  
13 reasonable action to protect Tara from herself, other than leaving a message for Tara's  
14 psychiatrist, but Dr. Shainsky further breached her duty of care by writing Tara a prescription  
15 for 100 Percocet (Oxycodone) at 10 mg each, the highest available dosage.

16 20. Dr. Shainsky provided Tara with a prescription of an unusually high number of  
17 Percocet prescription, after administering six injections to Tara's cervical trigger points and  
18 previously advising Tara against using narcotics to treat pain. At the same time Dr. Shainsky  
19 handed Tara the very means to end her life, Dr. Shainsky told Tara, "Promise me you won't  
20 hurt yourself."

21 21. After leaving Dr. Shainsky's office, Tara went to a CVS pharmacy, where she  
22 filled Dr. Shainsky's prescription for 100 Percocet (Oxycodone).

23 22. After picking up her Percocet prescription on the evening of March 22, 2010,  
24 Tara went to her apartment. On the morning of March 23, 2010, David found Tara slumped  
25 over on her bed from an overdose of the 100 Percocet Dr. Shainsky prescribed her, and some  
26 other pills. Paramedics declared Tara was declared dead at the scene. Law enforcement  
27 recovered an empty bottle of 100 count Percocet which had been filled at CVS on March 22,  
28 2010 from Tara's bedroom.





- providing Tara with a prescription for 100 Percocet after Tara told Dr. Shainsky that she wanted to kill herself and after Tara and David informed Dr. Shainsky of Tara's poor mental health, the types and dosages of Tara's multiple psychiatric medications, and Tara's December 2009 involuntary commitment for a reported near-fatal overdose of prescription medications; and
- failing to take appropriate action to protect Tara from herself other than leaving a message for Tara's psychiatrist, Dr. Paul Bohn, such as requesting that Dr. Bohn's service reach him on an emergency basis, call 911 to report Tara's suicide threat and/or refer Tara to an emergency room for treatment.

28. As a direct and proximate result of Defendants' negligence, carelessness, recklessness, wantonness, and unlawfulness as herein alleged, Tara died.

29. As a further direct and proximate result of Defendants' negligence, carelessness, recklessness, wantonness, and unlawfulness as herein alleged, Plaintiffs sustained significant economic and non-economic damages, including but not limited to, past and future lost earnings, funeral, burial, travel, and associated expenses, and general damages all in a sum according to proof at the time of trial.

**SECOND CAUSE OF ACTION**  
**NEGLIGENCE**  
**(Against all Defendants)**

30. Plaintiffs incorporate by this reference and reallege paragraphs 1 through 29 as though fully set forth at length herein.

31. Defendants owed Tara a duty of care in connection with providing her with medical care, diagnosis, treatment, evaluation, and consultation.

32. During the course of providing Tara with the medical care, diagnosis, treatment, evaluation, and consultation alleged herein, Defendants were aware, or should have been aware that Tara was a danger to herself and needed protection from herself, including limited access to large amounts of prescription medication and appropriate psychiatric and/or medical treatment.





VII.

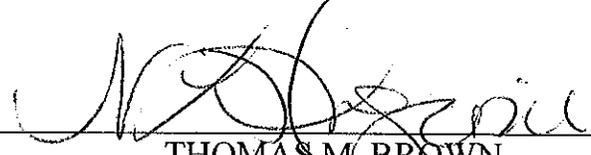
DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial.

DATED: March 22, 2011

BROWN WHITE & NEWHOUSE LLP

By



THOMAS M. BROWN  
KATHERINE C. MCBROOM  
NANNINA L. ANGIONI

Attorneys for Plaintiffs  
LINDA AND PETER DE ROGATIS

BROWN, WHITE & NEWHOUSE<sup>LLP</sup>  
ATTORNEYS



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# EXHIBIT A

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December 1, 2010

**VIA U.S. MAIL ONLY**  
**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Karen Shainsky, D.O.  
8737 Beverly Boulevard, Suite 203  
Los Angeles, CA 90048

Re: Notice Pursuant to California Code of Civil Procedure Section 364: Intent to Sue

Dear Dr. Shainsky:

The Estate of Tara De Rogatis ("Tara") retained our law firm to represent the estate as well as Tara's parents, Linda and Peter De Rogatis ("Tara's parents"), in connection with Tara's untimely death. On March 23, 2010, Tara died by overdosing on prescription medications which included the 100 Percocet pills you prescribed to Tara the day before her death, March 22, 2010. On the afternoon of March 22, 2010, after Tara and her fiancé specifically and unequivocally told you that Tara wanted to end her life, her previous suicide attempt by overdosing on prescription medication and her mental health background, you not only failed to take any reasonable action to protect Tara, but you affirmatively compromised her health and safety by prescribing her 100 Percocet, all which she ingested hours later. Your actions on March 22, 2010 were not only unquestionably negligent, as they fell far below the standard of care required by a reasonable rheumatologist in the community, but your actions and inactions also proximately caused Tara's death less than 24 hours after she saw you. Accordingly, Tara's estate and Tara's parents intend to commence legal action against you for, among other claims, medical malpractice, professional negligence and wrongful death.

Karen Shainsky, D.O.  
December 1, 2010  
Page 2

I.

**FACTUAL BACKGROUND**

**A. Background Information**

Tara died at the young age of 30 on the morning of March 23, 2010, with her life ahead of her. Tara's fiancé, David MacEachern found her alone in her bedroom, slumped over on her bed. When Tara did not respond to his attempts to wake her, David called 911 and began frantically performing chest compressions in a desperate effort to keep Tara alive. When paramedics arrived, they took over life saving attempts, but to no avail. Tara was declared dead at the scene.

At that time of her death, Tara was a vibrant, beautiful young woman who was actively pursuing an acting career. She had previously acted in a number of short films and was taking acting classes in order to perfect her skills. In addition to performing, she was an avid and accomplished oil painter and photographer. Tara had a marked zest for life, noted by all those who had the pleasure of knowing her. She was an active member of her Catholic Church and was scheduled to make her Confirmation in the presence of family and friends in the weeks following her death.

**B. Mental Health History**

There is no doubt that although Tara was exuberant and energetic, in the years prior to her death, Tara battled with mental illness. She sought the help of other physicians, including psychiatrist Dr. Paul Bohn, and took medications to treat her symptoms. Unfortunately, in December 2009, while visiting her family in New Jersey, Tara was hospitalized involuntarily following a reported suicide attempt.

**C. Your Treatment of Ms. De Rogatis**

Shortly after her return to California in late 2009/early 2010, Dr. David Ramin referred Tara to you for treatment of pain throughout her body. In your February 10, 2010 progress notes, you report that Tara, "a 30-year-old female with history of psychiatric mood disorder," complained of overall pain which interfered with her daily activities. You list Tara's current medications as Ambien, Klonopin, Norco and Synthroid. On that date, your notes reflect that you discussed management of fibromyalgia pain with Tara, prescribed Cymbalta and administered injections at Tara's "trigger points." Significantly, you specifically note that you discouraged Tara from using narcotics to treat her pain.

Karen Shainsky, D.O.  
December 1, 2010  
Page 3

Your notes from Tara's next visit on March 2, 2010 state that Tara reported improvement in her pain following the injections, but that the pain returned within two weeks. Again, you administered injections to Tara's trigger points and recommended a follow up in four weeks.

Approximately three weeks later, on March 22, 2010, Tara came to your office with her fiancé, David, complaining of excruciating pain. While in your office, Tara stated that she was in so much pain, she wanted to kill herself. You were obviously concerned and you put a call into Tara's psychiatrist, Dr. Paul Bohn, and left a message regarding Tara's statement and requested that he call you back. Upon returning to the examining room, you, Tara and David spoke about Tara's poor mental health and her current psychiatric medications. In fact, in your March 22, 2010 progress report, you note Tara's "current medications" as Klonopin, Norco, Synthroid, Cymbalta, Trazadone, Strattera, Levothyroxine and Cytomel. During that conversation, David informed you that in December 2009, Tara attempted suicide by ingesting a large amount of prescription medications and that her statement regarding wanting to kill herself should be taken seriously.

Notwithstanding all of this critical information, you not only failed to take reasonable action to protect Tara from herself other than leaving a message for Tara's psychiatrist, but you wrote her a prescription for 100 Percocet at 10 mg each, the highest available dosage. You provided Tara with an extremely large Percocet prescription, after just administering six injections to Tara's "trigger points" and previously advising Tara against the use of narcotics to treat pain. Notably, at the same time you handed Tara the very means to end her life, you asked her to promise that she would not hurt herself, undoubtedly knowing there was a significant chance of her doing so.

#### **D. Tara's Death**

The same day as you gave her the deadly prescription, Tara filled her Percocet prescription at a CVS pharmacy. Significantly, Tara had gone to more than one pharmacy to fill your prescription. One of the pharmacies told her that they were surprised that a physician would prescribe such a large number of Percocet and refused to fill the prescription. Upon arriving home with 100 count Percocet, Tara went into her bedroom to take a shower and study her Confirmation materials. That was the last time anyone saw Tara conscious. The next morning, David found Tara slumped over on her bed with vomit on her mouth. In utter shock and panic, David attempted to revive Tara until paramedics arrived. However, after the paramedics worked on Tara for a time, they pronounced her dead at the scene.

The Los Angeles County Coroner determined that Tara died from ingesting lethal levels of prescription medication. The Coroner's office noted that law enforcement confiscated an empty bottle of 100 Percocet filled on March 22, 2010 and discovered a lethal level of oxycodone in Tara's system.

Karen Shainsky, D.O.  
December 1, 2010  
Page 4

II.

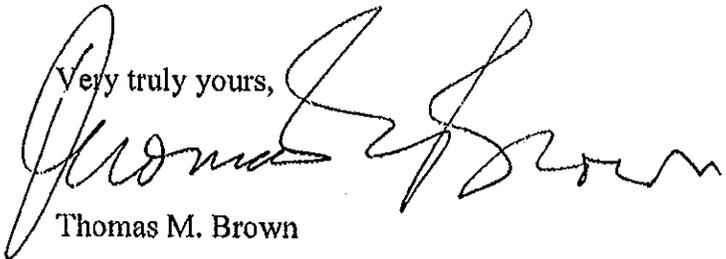
**INTENT TO FILE SUIT**

Given the negligent acts described above, including both your failure to do anything other than leave a message for Dr. Bohn and, without waiting for an answer for seeking to commit Tara, your prescribing Tara 100 Percocet after Tara had threatened suicide and David informed you of her previous suicide attempt, Tara's estate and her parents have an extremely strong case against you for, among other claims, medical malpractice, professional negligence and wrongful death. Had you taken some reasonable and professional action to protect Tara and her well-being and/or refrained from prescribing her the huge number of lethal narcotics that you did, Tara would be alive today. Not only did a young, vivacious and very talented woman lose her life, but two parents have suffered and will continue to suffer the loss of their cherished daughter and companion.

This correspondence thus serves to give you legal notice, pursuant to California Code of Civil Procedure section 364, that Tara's estate and Linda and Peter De Rogatis intend to commence legal action against you for, among other claims, medical malpractice, professional negligence and wrongful death. We intend to file this action on or before March 15, 2011.

Prior to filing a Complaint in this matter, Tara's estate and her parents are open to discuss resolution of the case or engage in a mediation with you to resolve the matter confidentially. If we do not hear from you regarding a satisfactory resolution by March 10, 2011, we intend to pursue all available legal remedies against you vigorously and doggedly. We look forward to hearing from you.

Very truly yours,



Thomas M. Brown

for BROWN WHITE & NEWHOUSE LLP