

CARLTON SULLIVAN, Individually
and As Personal Representative of the
Estate of JOSEPHINE SULLIVAN
Deceased
4811 Emo Street
Capitol Heights, Maryland 20743

and

CARLOTTA SPENCER-SULLIVAN
4811 Emo Street
Capitol Heights, Maryland 20743

and

LaTANYA SULLIVAN
7303 Chaddsford-Shoreside Court
Brandywide, Maryland 20613

and

IAN SULLIVAN
MCIH
18601 Roxbury Road
Hagerstown, Maryland 21746

Plaintiffs,

v.

KAISER FOUNDATION HEALTH PLAN
OF THE MID-ATLANTIC STATES, INC.
2101 E. Jefferson Street
Rockville, MD 20852

SERVE ON:
Prentice Hall Corporation System, M
7 St. Paul Street, Suite 1660
Baltimore, MD 21202

and

MID-ATLANTIC PERMANENTE
MEDICAL GROUP, P.C.
2101 E. Jefferson Street
Rockville, MD 20852

* IN THE
* CIRCUIT COURT
* FOR
* PRINCE GEORGE'S COUNTY
* MARYLAND

CASE NO: Call
27039

PRINCE GEORGE'S COUNTY

Clerk of the
Circuit Court

Case: CAL12-27039
NEW CASE
APP FEE PLAIN 10.00
CV CLERK FEE- 80.00
MD LEGAL SERV 35.00
TOTAL 145.00
Res# PG11 Rcpt # 73795
MMB APH Blk # 1018
Sep 11, 2012 08:33 am

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SERVE ON: *
Prentice Hall Corporation System, M *
7 St. Paul Street, Suite 1660 *
Baltimore, MD 21202 *

Defendants

* * * * *

COMPLAINT

Plaintiffs, Carlton Sullivan, Individually and as Personal Representative of the Estate of Josephine Sullivan, Carlotta Spencer Sullivan, Individually, LaTanya Sullivan, Individually and Ian Sullivan, Individually, by and through their attorneys, Roxanne L. Ward, Esquire, Carlos G. Stecco, Esquire, and Stecco & Ward, P.C., pursuant to the Health Care Malpractice Claims Act, Md. Code Ann., Cts. & Jud. Proc., § 3-2A-01, *et seq.* (1976, 2006 Repl. Vol.), hereby sue Health Care Providers, Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.A..

JURISDICTION/VENUE

1. This claim was brought before the Health Care Alternative Resolution Office of Maryland, HCA No. 2012-384, pursuant to Md. Code Ann., Cts. & Jud. Proc., §3-2A-01, *et seq.* Plaintiffs filed an Election to Waive Arbitration and an Order of Transfer to this Court was subsequently granted, and is attached as Exhibit 1.
2. The amount in controversy exceeds Thirty Thousand Dollars (\$30,000.00), exclusive of interests and costs.
3. The proper venue for this action is Prince George's County, Maryland where all Defendants practice and maintain a principal place of business, and where the events in question occurred.

PARTIES

4. The Decedent, Josephine Sullivan, was a 62 year-old female who resided at 4811 Emo Street, Capitol Heights, Maryland 20743 at the time of the occurrence complained of herein and at the time of her death.

5. Plaintiff, Carlton Sullivan, ("Plaintiff") is a natural person and resident of Maryland at 4811 Emo Street, Capitol Heights, Maryland 20743. Mr. Sullivan brings this case Individually as surviving spouse of Decedent Josephine Sullivan, and as the Personal Representative of the Estate of Josephine Sullivan. Mr. Sullivan was appointed Personal Representative of the Estate of Josephine Sullivan by the Register of Wills of Prince George's County on June 3, 2010. The Letters of Administration are attached hereto as Exhibit 2.

6. Plaintiff, Carlotta Spencer-Sullivan ("Plaintiff") is a natural person and a resident of Maryland at 4811 Emo Street, Capitol Heights, Maryland 20743. Carlotta Spencer-Sullivan brings this action individually as the adult daughter of the Decedent Josephine Sullivan.

7. Plaintiff, LaTanya Sullivan ("Plaintiff") is a natural person and a resident of Maryland at 7303 Chaddsford-Shoreside Court, Brandywine, Maryland 20613. LaTanya Sullivan brings this action Individually as the adult daughter of the Decedent Josephine Sullivan.

8. Plaintiff, Ian Sullivan ("Plaintiff") is a natural person and a resident of Maryland at MCIH 18601 Roxbury Road, Hagerstown, Maryland 21746. Ian Sullivan brings this action individually as the adult son of the Decedent Josephine Sullivan.

9. At all times relevant hereto, Defendant Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. was a corporation licensed to do business in the State of Maryland and which holds itself out to the community as a provider of health care services. In the present case, Ms. Sullivan received care at two Kaiser locations; 1221 Mercantile Lane, Upper Marlboro,

Maryland 20774 and 5100 Auth Way, Suitland, Maryland 20746. At all times material hereto, the medical care provided to Josephine Sullivan by Defendant Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., was provided by and through their actual and/or apparent agents, physicians, nurses, physician assistants, nurse practitioners, and other physician extenders.

10. At all times relevant hereto, Defendant Mid-Atlantic Permanente Medical Group, P.C. was a professional corporation, partnership, and/ or legal entity that is affiliated with the Defendant, Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., and which provides it with its trained and licensed health care providers, particularly its physicians and physician extenders. At all times material hereto, the medical care provided to Josephine Sullivan by Defendant Mid-Atlantic Permanente Medical Group, P.C., was provided by and through their actual and/or apparent agents, physicians, nurses, physician assistants, nurse practitioners, and other physician extenders.

11. At all times relevant to the cause of action asserted herein, the Plaintiffs' Decedent, Josephine Sullivan, was an active and participating member of the Defendant health care delivery system and received her medical care, particularly the medical care at issue herein, by the said Defendants and/or under the direct supervision and control of the Defendants.

FACTS COMMON TO ALL COUNTS

12. The Plaintiffs incorporate in this Count those facts set forth in paragraphs 1 through 11, hereinabove, including subparagraphs, by reference thereto, as if fully set forth herein.

13. On or about June 27, 2000, Ms. Sullivan became a Kaiser patient at the age of 52.

14. Ms. Sullivan had a history of asthma, COPD, cholecystectomy, and depression.

15. At no time during the year 2001 were any recommendations given to Ms. Sullivan for any type of colon cancer screening.

16. At no time during the year of 2002 were any recommendations given to Ms. Sullivan for any type of colon cancer screening.

17. In 2003, Ms. Sullivan began to report poor appetite and weight loss to Kaiser health care providers

18. On or about September 18, 2003, an incomplete flexible sigmoidoscopy was performed. There is no reference in the medical records as to the indication for the sigmoidoscopy. The scope was inserted 25 cm during the procedure. Ms. Sullivan was unable to tolerate further advance of the scope. A rectal exam revealed no external hemorrhoids, no palpable internal hemorrhoids, rectosigmoid and descending colon with normal mucosa, no diverticulae, no polyps, no masses. The plan was to refer the patient for a barium enema, and to repeat the procedure in 5 years. The procedure was never repeated.

19. At no time during the year 2004 were any recommendations made to Ms. Sullivan for any type of colon cancer screening.

20. There are additional notations of weight loss in Ms. Sullivan's chart in 2004.

21. At no time during the year 2005 were any recommendations made to Ms. Sullivan for any type of colon cancer screening.

22. At no time during the year 2006 were any recommendations made to Ms. Sullivan for any type of colon cancer screening.

23. By November 24, 2006, Ms. Sullivan's weight was approximately 98 lbs.

24. On or about January 4, 2007, Ms. Sullivan reported that she was not eating well due to poor appetite. The patient's weight on January 23, 2007 was 96 lbs. and on May 30, 2007, weight was 94 lbs. The next documented weight (approximately 97 lbs) is on October 10, 2007.

25. By February 13, 2008, Ms. Sullivan's weight was down to 93 lbs.

26. On or about February 25, 2008, Ms. Sullivan, then age 60, presented to the emergency department at Washington Hospital Center, reporting a 3 day period of abdominal cramping and intermittent pain, as well as a 1 day history of nausea and vomiting. A CT scan done on admission showed a splenic flexure colon mass causing a near complete obstruction of the cecum of 7.5 cm in diameter. The peritoneum was normal and there was a liver mass of 6 cm.

27. Ms. Sullivan was admitted and taken to the operating room where she underwent exploratory laparotomy, loop colostomy, and lysis of adhesions, which was performed on February 26, 2008. The operative report reflects that some of the omentum was stuck to the small bowel, obstructing the view into the splenic flexure. Therefore, adhesion tissues were brought down. After further dissection, the splenic flexure mass was identified, and it was very hard to touch. It was found to be invading into the spleen, and also into the fourth portion of duodenum, and also into the tail of the pancreas. The kidney was not involved, but the mass was very close to the kidney.

28. There was a discussion of whether to resect the colon cancer with the splenectomy and distal pancreatectomy, but given the size and the local invasion advancement of the tumor, the decision was made to perform a loop colostomy. The patient also had a large left lobe liver mass. Biopsy of the liver mass confirmed metastatic colonic adenocarcinoma. Diagnosis was Stage IV colon cancer with bowel obstruction and liver metastases.

29. Post-operatively, Ms. Sullivan was made n.p.o until any sign of bowel activity. Oncology was consulted, who determined the patient's next step of treatment would be chemotherapy, possibly radiation, the reason for which the patient was scheduled for MediPort placement, which was done on March 3, 2008. Ms. Sullivan developed a combined metabolic alkalosis, for which she was treated and improved. Ms. Sullivan was discharged from

Washington Hospital Center on March 10, 2008.

30. Ms. Sullivan subsequently underwent numerous cycles of chemotherapy in 2008 and 2009.

31. Further diagnostic studies revealed additional metastases of the cancer.

32. In the Fall of 2009, Ms. Sullivan came under the care of home hospice.

33. As a direct and proximate result of the negligence of these Health Care Providers and each of them, Claimants' Decedent died on May 16, 2010 at the age of 62.

34. At all times material hereto, the medical care provided to Josephine Sullivan ("Josephine") by Defendant Mid-Atlantic Permanente Medical Group, P.A., was provided by and through their actual and/or apparent agents, nurses, residents, independent contractors, servants and/or employees, including, but not limited to, Eugene Taylor, M.D., Syed Karim, M.D., Brigid Wiredy, NP, Beatriz Chanduvi, M.D., Rita Bullock, RN, Richard Akoto, M.D., Michael Rogers, M.D., Laurie Ellen Duncan, M.D., Wenda Collien, NP, Deborah Thompson, M.D., Ethiopia Abebe, M.D., Sharon Smith, NP, and Alan Korff, NP, and other as yet unidentified physicians, nurses, aides, physician assistants, nurse practitioners, and other health care providers represented to decedent and the general public that they possessed the degree of knowledge, ability and skill possessed by reasonably competent medical providers practicing under similar circumstances as those involved in the care of decedent.

35. The decedent, Josephine Sullivan, relied upon the Defendants Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.C., and their actual and/or apparent agents, nurses, residents, independent contractors, servants and/or employees, jointly and severally, to exercise that degree of skill and care to properly, accurately, and timely diagnose and treat her medical condition as would other reasonable health care providers under the same or similar circumstances.

36. As a direct and proximate cause of the negligence of these Defendants and each of them, the Plaintiffs have in the past, are presently, and will in the future suffer unending pain, emotional anguish, support, and sorrow of the death of their wife and mother, Josephine Sullivan.

COUNT 1

(MEDICAL NEGLIGENCE – SURVIVAL CLAIM)

37. The Plaintiffs incorporate in this Count those facts set forth in paragraphs 1 through 36 hereinabove, including subparagraphs, by reference thereto, as if fully set forth herein.

38. The Estate of Josephine Sullivan, deceased, by Carlton Sullivan, Personal Representative, sues Defendants Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.C., Health Care Providers under the Survival Act, Maryland Cts. & Jud. Proc., Code §6-401(a), pursuant to the authority vested in a Personal Representative by virtue of Maryland Estates and Trusts Code §7-401(y) and alleges as follows:

39. The named Defendants, including their actual and/or apparent agents, nurses, residents, independent contractors, servants and/or employees, owed to the public at large and to Josephine Sullivan, a duty to use that degree of skill and care typically exercised by health care practitioners in the same specialty with like training and experience in the same or similar circumstances.

40. The Plaintiffs allege that Defendant, Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and including its duly authorized agents and/or employees, owed to the Decedent the duty to exercise reasonable care, skill and judgment expected of a competent medical practitioner acting in the same or similar circumstances, which duty included the performance of adequate and proper diagnostic tests and procedures to determine the nature and severity of the Decedent's condition, careful diagnosis of such condition, employment of appropriate procedures, surgery

and/or treatment to correct such conditions without injury upon the Decedent, continuous evaluation of the Decedent's condition and the effects of such treatment, and adjustment of the course of treatment in response to such ongoing surveillance and evaluation, all of which the Defendants failed to do.

41. Defendant Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., itself and by and through their actual and/or apparent agents, nurses, residents, independent contractors, servants and/or employees, including, but not limited to, Eugene Taylor, M.D., Syed Karim, M.D., Brigid Wirey, NP, Beatriz Chanduvi, M.D, Rita Bullock, RN, Richard Akoto, M.D., Michael Rogers, M.D., Laurie Ellen Duncan, M.D., Wenda Collien, NP, Deborah Thompson, M.D., Ethiopia Abebe, M.D., Sharon Smith, NP, and Alan Korff, NP, and other as yet unidentified physicians, nurses, aides, physician assistants, nurse practitioners, and other health care providers was negligent in its care and treatment of Josephine Sullivan by breaching the standard of care in the following ways:

- a. Failing to perform fecal occult blood test (FOBT) or fecal immunochemical test 1 (FIT);
- b. Failing to schedule a follow up sigmoidoscopy following the incomplete flexible sigmoidoscopy performed on September 18, 2003;
- c. Failing to schedule a barium enema in the absence of a colonoscopy, sigmoidoscopy, or fecal occult blood test;
- d. Failing to recommend a colonoscopy for Ms. Sullivan;
- e. Failing to appreciate the significance of Ms. Sullivan's weight loss and lack of appetite over a several year period;
- f. The negligent provision of fragmented medical care;
- g. Failing to adequately train and/or by permitting their employees, actual and/or

apparent agents, physicians, nurses, nurse practitioners, and physician assistants, to provide substandard care;

- h. The Defendants are responsible for the actions of their employees, actual and/or apparent agents, physicians, nurses, nurse practitioners, and physician assistants, by virtue of the doctrine of *respondeat superior* ;
- i. Failing to make recommendations for and to order tests for colon cancer screening; and
- j. In other ways departing from the applicable standards of care.

42. The Plaintiffs allege that Defendant, Mid-Atlantic Permanente Medical Group, P.C., including its duly authorized agents and/or employees, owed to the Decedent the duty to exercise reasonable care, skill and judgment expected of a competent medical practitioner acting in the same or similar circumstances, which duty included the performance of adequate and proper diagnostic tests and procedures to determine the nature and severity of the Decedent's condition, careful diagnosis of such condition, employment of appropriate procedures, surgery and/or treatment to correct such conditions without injury upon the Decedent, continuous evaluation of the Decedent's condition and the effects of such treatment, and adjustment of the course of treatment in response to such ongoing surveillance and evaluation, all of which the Defendant failed to do.

43. Defendant Mid-Atlantic Permanente Medical Group, P.C, itself and by and through their actual and/or apparent agents, nurses, residents, independent contractors, servants and/or employees, including, but not limited to, Eugene Taylor, M.D., Syed Karim, M.D., Brigid Wiredy, NP, Beatriz Chanduvi, M.D, Rita Bullock, RN, Richard Akoto, M.D., Michael Rogers, M.D., Laurie Ellen Duncan, M.D., Wenda Collien, NP, Deborah Thompson, M.D., Ethiopia

Abebe, M.D., Sharon Smith, NP, and Alan Korff, NP, and other as yet unidentified physicians, nurses, aides, physician assistants, nurse practitioners was negligent in its care and treatment of Josephine Sullivan by breaching the standard of care in the following ways:

- a. Failing to perform fecal occult blood test (FOBT) or fecal immunochemical test 1 (FIT);
- b. Failing to schedule a follow up sigmoidoscopy following the incomplete flexible sigmoidoscopy performed on September 18, 2003;
- c. Failing to schedule a barium enema in the absence of a colonoscopy, sigmoidoscopy, or fecal occult blood test;
- d. Failing to recommend a colonoscopy for Ms. Sullivan;
- e. Failing to appreciate the significance of Ms. Sullivan's weight loss and lack of appetite over a several year period;
 - 1.
- f. The negligent provision of fragmented medical care;
- g. Failing to adequately train and/or by permitting their employees, actual and/or apparent agents, physicians, nurses, nurse practitioners, and physician assistants, to provide substandard care;
- h. The Defendants are responsible for the actions of their employees, actual and/or apparent agents, physicians, nurses, nurse practitioners, and physician assistants, by virtue of the doctrine of *respondeat superior* ;
- i. Failing to make recommendations for and to order tests for colon cancer screening;
- j. In other ways departing from the applicable standards of care

44. As a direct and proximate cause of the negligence on the part of the named Defendants and any actual and/or apparent agents, nurses, residents, independent contractors, servants and/or employees, Decedent Josephine Sullivan, through no fault of her own, died and from the time of these failures until her death, endured severe conscious pain and suffering, multiple surgical procedures, multiple hospital admissions, medical expenses, great medical, physical, hospital, and related costs, chemotherapy, emotional anguish, fear, anxiety, humiliation, and embarrassment. The Estate of Josephine Sullivan incurred costs for funeral, burial and internment expenses.

WHEREFORE, Carlton Sullivan, as Personal Representative of the Estate of Josephine Sullivan, deceased, respectfully demands judgment against these named Defendants, including any actual and/or apparent agents, nurses, residents, independent contractors, servants and/or employees jointly and severally, for actual, general, special, and compensatory damages as a consequence of the negligence of these named Defendants in an amount exceeding Thirty Thousand Dollars (\$30,000.00), exclusive of interests and costs, and any other legal or equitable relief as justice requires.

COUNT II

(MEDICAL NEGLIGENCE—WRONGFUL DEATH—Josephine Sullivan)

45. The Plaintiffs incorporate in this Count those facts set forth in paragraphs 1 through 44, including subparagraphs, by reference thereto, as if fully set forth herein.

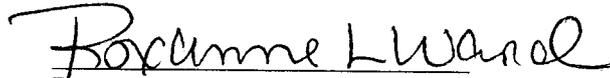
46. Pursuant to Maryland Rule 15-1001, the following persons who are the surviving spouse and adult children of Josephine Sullivan are entitled to recover damages for wrongful death as they are the only other “primary beneficiaries” in an action for wrongful death under Courts & Judicial Proceedings §3-904(a):

- (a) Carlton Sullivan (surviving spouse);**
- (b) LaTanya Sullivan (adult daughter of decedent);**
- (c) Carlotta Sullivan (adult daughter of decedent);**
- (d) Ian Sullivan (adult son of decedent)**

47. As a direct and proximate cause of the negligence on the part of the named Defendants, including any actual and/or apparent agents, nurses, residents, independent contractors, servants and/or employees listed herein above, including but not limited to, Eugene Taylor, M.D., Syed Karim, M.D., Brigid Wirey, NP, Beatriz Chanduvi, M.D, Rita Bullock, RN, Richard Akoto, M.D., Michael Rogers, M.D., Laurie Ellen Duncan, M.D., Wenda Collien, NP, Deborah Thompson, M.D., Ethiopia Abebe, M.D., Sharon Smith, NP, and Alan Korff, NP, and other as yet unidentified physicians, nurses, aides, physician assistants, nurse practitioners Claimants Carlton Sullivan Carlotta-Spencer-Sullivan, LaTanya Sullivan, and Ian Sullivan, individually as the surviving spouse and adult children of the Decedent, have been caused to experience and will continue to experience extreme mental anguish, emotional pain and suffering, loss of society, loss of companionship, loss of comfort, loss of protection, loss of care, loss of counsel, loss of guidance, loss of attention and loss of advice resulting from the unnecessary and tragic death of their wife and mother, Josephine Sullivan.

WHEREFORE, as a result of the foregoing, Carlton Sullivan, Carlotta-Spencer-Sullivan, LaTanya Sullivan, and Ian Sullivan respectfully demand judgment against Defendants Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.A. for actual, general, special and compensatory damages in an amount exceeding Thirty Thousand Dollars (\$30,000.00), exclusive of interests and costs, and any other legal or equitable relief as justice requires.

Respectfully submitted,



Roxanne L. Ward

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