

BILLIE JO BONOLIS
1020 Double Gate Road
Davidsonville, MD 21035

and

RON BONOLIS
1020 Double Gate Road
Davidsonville, MD 21035

Plaintiffs

v.

**KAISER FOUNDATION HEALTH PLAN
OF THE MID-ATLANTIC STATES, INC.**
2101 East Jefferson Street
Rockville, Maryland 20852

Serve On: Resident Agent
Prentice Hall Systems
11 Chase Street, Suite 9
Baltimore, Maryland 21202

and

**MID-ATLANTIC PERMANENTE
MEDICAL GROUP, P.C.**
2101 East Jefferson Street
Rockville, Maryland 20852

Serve On: Resident Agent
Prentice Hall Systems
11 Chase Street, Suite 9
Baltimore, Maryland 21202

Defendants

* IN THE CIRCUIT COURT
* OF MARYLAND FOR
* ANNE ARUNDEL COUNTY

*

* CASE NO: C-13-178469

*

*

*

*

*

*

*

*

*

*

*

*

*

*

* * * * *

COMPLAINT AND ELECTION FOR JURY TRIAL

2013 MAY 16 A 10:57

The Plaintiffs, Billie Jo Bonolis and Ron Bonolis, by their attorneys Roy L. Mason and Law Offices of Roy L. Mason, P.A., hereby sue Defendants, Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.C., and for their causes of action state as follows:

PARTIES AND JURISDICTION

1. The Plaintiffs, Billie Jo Bonolis and Ron Bonolis, were all times relevant hereto citizens and residents Anne Arundel County, Maryland.

2. At all times relevant hereto, Lysa Charles, M.D. (herein "Dr. Charles"), has been a physician engaged in the practice of Orthopedic Medicine in Anne Arundel County, Maryland, acting individually and through actual and/or apparent agents, servants and/or employees. Dr. Charles is an employee, and an actual and/or apparent agent of Mid-Atlantic Permanente Medical Group, P.C. (hereinafter "MAPMG") and Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. (herein after "Kaiser Mid-Atlantic").

3. At all times relevant hereto, Defendant Mid-Atlantic Permanente Medical Group, P.C., has been a corporation organized in the State of Maryland involved in providing health care services throughout Maryland, as part of the Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., acting individually and through actual and/or apparent agents, servants and/or employees, including Lysa Charles, M.D..

4. At all times relevant hereto, Defendant Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., has been a corporation organized in the State of Maryland involved in providing health care services throughout Maryland, acting individually and through actual and/or apparent agents, servants and/or employees, including Lysa Charles, M.D. and Mid-Atlantic Permanente Medical Group, P.C.

5. The amount of this claim exceeds Thirty Thousand Dollars (\$30,000).

6. The venue for this claim is proper in the Circuit Court for Anne Arundel County, Maryland.

FACTS COMMON TO ALL COUNTS

7. Billie Jo Bonolis was an active 60-year-old woman who was mentally and physically active and fully independent of activities of daily living.

8. On or about March 16, 2010, Ms., Bonolis underwent an arthroscopic acromioplasty and open rotator cuff repair by Dr. Lysa Charles on at MedStar Surgicenter in Pasadena, Maryland. To perform the repair, a single anchor was placed.

9. On March 25, 2010, she was evaluated by Dr. Boakye, her internist, who made a diagnosis of cellulitis and placed the patient on an oral antibiotic. Initially, the redness improved but drainage and redness return within a short period of time.

10. An MRI was performed on April 6, 2010, that was read as post-surgical changes to the humerus or osteomyelitis.

11. Despite the MRI report of April 6, 2010, which raised the probability of osteomyelitis, on April 8, 2010, Dr. Charles performed an irrigation and debridement of Ms. Bonolis' right shoulder, cleaning out only the subacromial space and the area of open incision at that time. Although she had an opportunity during this procedure, Dr. Charles did not attempt to obtain a biopsy of the bone to rule out osteomyelitis. Instead, she placed the Plaintiff on antibiotics for the second time, having a PICC (Peripherally Inserted Central Catheter) inserted to allow long term antibiotics to be infused directly into the circulatory system.

12. Because of their inadequate treatment, shortly after Ms. Bonolis completed the second course of antibiotics, on May 30, 2010, the redness and swelling of the shoulder returned.

13. On June 5, 2010, Ms. Bonolis called Dr. Boakye with her continuing concerns of several days of redness and swelling.

14. Ms. Bonolis was referred to and was evaluated by Dr. Charles on June 5, 2010. Despite the continuing nature of this obvious infection with several rounds of oral and intravenous antibiotics, and the danger of osteomyelitis which had been raised as a potential finding in the MRI of almost two month prior, Dr. Charles merely expressed pus from the anterior portal wound and, for the third time, placed the Plaintiff on an oral antibiotic, despite the failures of this treatment. No new radiology was performed.

15. Not unexpectedly, after the several rounds of antibiotics, Ms. Bonolis continued to have purulent drainage from the right shoulder. This was again noted during the June 21, 2010 office visit with Dr. Charles. At that time, Dr. Charles noted "purulent" drainage, but assessed it as "right stitch abscess" and had the patient continue on antibiotics. Thus, the failed treatment continued.

16. On June 24, 2010, another MRI was performed and was assessed by the radiologist as showing signs of "Increased humeral marrow edema ...concerning for persistent infection" centered around the anchor, which had been placed into the bone during the surgery on March 16, 2010.

17. More than two months later, Ms. Bonolis was admitted to Greater Baltimore Medical Center on June 26, 2010 because of persistent drainage of the shoulder. At that time, Dr. Charles performed a repeat arthroscopic washout of the shoulder but did not retrieve the bone anchor. Osteomyelitis is not even mentioned in the operative note, and no surgical intervention for osteomyelitis was performed on that day.

18. On June 28, 2010, Dr. Charles consulted Dr. Mettassebia Kanno, who provided an infectious disease consultation that noted joint involvement due to the proximity of the inflammatory process, stating: "Another concern is for osteomyelitis since the anchor is still in place and cultures from the anchor hold are positive for MRSA". He noted that since there is foreign material in situ, antibiotic therapy alone may not eradicate the infection yet Ms. Bonolis was discharged home on one more round of antibiotics through another PICC line.

19. A bone scan was performed on July 13, 2010, which was read by the radiologist as showing an infection of the acromioclavicular, or AC, joint.

20. On July 20, 2010, Ms. Bonolis returned to the Surgicenter at Pasadena for an open distal clavicle excision and limited wound debridement of the right shoulder for chronically draining pus. Again, Ms. Bonolis was placed on antibiotics.

21. Eight days later, on July 28, 2010, purulent drainage began again. Dr. Kanno, the infectious disease specialist, recommended another surgical evaluation stating that "surgical focus that has not yet been drained" was the cause for the ongoing infection.

22. On August 2, 2010, Ms. Bonolis was evaluated by Dr. Moinfar, an orthopaedic surgeon, at the Chesapeake Orthopaedic and Sports Medicine Center. He recommended switching antibiotics. However, as of August 15, 2010, he noted that Ms. Bonolis was "still leaking pus," an infection that began in March.

23. Thankfully, Ms. Bonolis was finally evaluated by Dr. Jason Stein of Union Memorial Hospital on August 23, 2010. After reviewing the medical history, examining and assessing the right shoulder and reviewing her MRI's, Dr. Stein recommended aggressive surgical excision of the likely area of osteomyelitis, which required removal of the humeral head and placement of an antibiotic spacer for osteomyelitis.

24. An MRI performed at Advanced Radiology, on August 25, 2010, again showed humeral head edema that was suspicious for osteomyelitis.

25. On September 14, 2010, Dr. Stein informed Ms. Bonolis that the MRI performed on June 24, was consistent with a bone infection and that additional surgery would be required. On that date, Dr. Stein told Ms. Bonolis that the prior surgeries and procedures had not resolved her infection. Dr. Stein further informed Ms. Bonolis, on September 14, that the infection had become so severe and extensive that her humeral head had been eaten away. Finally, Dr. Stein informed Ms. Bonolis, on September 14, that the condition of the humerus was now so critical that he was unable to tell her how many additional surgeries would be required to resolve the painful infection.

26. After giving her this troubling prognosis, on September 14, 2010, Dr. Stein performed a resection of the right proximal humerus and placement of antibiotic spacers in an attempt to clear her infection. A PICC line¹ was also placed to allow for long term administration of antibiotics which would be necessary to combat the infection.

27. During October 2010, Ms. Bonolis developed a PICC line infection, requiring her to spend 5 days at Union Memorial Hospital. The cause of the infections was "superbugs" in her body, which were life threatening in nature.

28. On February 8, 2011, an additional surgery was required for placement of further antibiotic spacers in a further attempt to clear her infection. This surgery delayed the planned shoulder replacement surgery.

¹ Peripherally Inserted Central Catheter (PICC). An intravenous catheter inserted into a peripheral vein, typically in the upper arm, and advanced until the catheter tip terminates in a large vein in the chest near the heart to obtain intravenous access and to allow for the long term administration of medications or other intravenous solutions.

29. On March 22, 2011, after Dr. Stein was determined that all traces of infection had been cleared, Ms. Bonolis had one final surgery for removal of the antibiotic spacer and placement of a reverse total shoulder replacement.

30. Since that date, the Plaintiff has been through months of grueling and painful recovery, including physical therapy. Despite the physical therapy, due to the massive damage done to her right shoulder and the nature of the required shoulder replacement, Ms. Bonolis has been unable to regain full use of her right shoulder and has only limited range of motion. Dr. Stein has told her that it is unlikely that she will ever have full use or motion of the right shoulder joint because the infection was allowed to go on for a prolonged period without adequate treatment.

31. Because of the negligent medical treatment described above, Ms. Bonolis currently relies on her husband to perform tasks that she formerly was capable of performing on her own. Specifically, Ms. Bonolis requires her husband's help for personal hygiene, washing and combing her hair, tying her shoes, cooking, and cleaning.

32. Ms. Bonolis has also lost abilities that she formerly possessed, prior to the negligent acts described above. Specifically, she has lost the ability to write normally and care for her grandchildren.

33. Finally, Ms. Bonolis is no longer able to engage in pastimes that she formerly enjoyed, which she would normally be able to accomplish, from one edge of the spectrum to another: crocheting to swimming.

34. Throughout this ordeal, Ms. Bonolis, has endured great mental anguish, caused, in part, by the knowledge that she could have died from the inadequate infections and ailments that were proximately caused by the negligent acts and omissions described herein.

35. Because of the acts and/or omissions of the defendants, Ms. Bonolis has endured excruciating pain and suffering more severe than anything she has ever suffered in her life, along with severe disfigurement of her shoulder. Her pain, suffering and disfigurement continues to the present date.

COUNT I
(Medical Malpractice – Negligence)

The Plaintiffs, Billie Jo Bonolis and Ron Bonolis, by their attorneys Roy L. Mason and the Law Offices of Roy L. Mason, P.A., hereby sue, Defendants Kaiser Foundation Health Plan of the Mid-Atlantic States Mid-Atlantic Permanente Medical Group and for their causes of action state as follows:

36. The Plaintiffs hereby incorporate by reference and re-allege the allegations provided in the preceding paragraphs.

37. Defendants, Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.C., individually and through their actual and /or apparent agents, servants and/or employees each owed Ms. Bonolis a duty to exercise reasonable skill and care in her care and treatment.

38. Defendants, Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.C., individually and through their actual and/or apparent agents, servants and/or employees, breached the above-described duty of care thereby deviating from the applicable standard of care and were otherwise negligent, careless and/or reckless in that they, among other things:

- a. Failed to exercise reasonable care and diligence in the application of knowledge, skill, care and ability while treating and evaluating Ms. Bonolis;

b. Failed to exercise the best medical judgment in the care and treatment of Ms.

Bonolis;

c. Failed to exercise reasonable care in properly assessing and treating Ms. Bonolis right shoulder infection;

d. Failed to properly evaluate and investigate Ms. Bonolis continuing complaints of pain and purulent drainage and the MRI studies which were suspicious for osteomyelitis in a timely manner;

e. Failed to timely intervene with proper testing and surgery or otherwise to prevent the further development of osteomyelitis of the right humeral head;

f. Failed to timely intervene with removal of the bone anchor, excision of the infected bone surrounding the anchor and placement of antibiotic beads in the area of the infected bone; and

g. Committed other negligent acts and/or omissions as may be shown at trial.

39. As a direct and proximate result of the negligent care by Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.C., individually and through their actual and/or apparent agents, servants and/or employees, Ms. Bonolis has needlessly sustained great suffering and permanent injury including:

a. Continued and unrelenting physical suffering;

b. Severe disfigurement and disability;

c. Severe emotional pain and suffering; and

d. Expenses for medical care and home activities

40. The damages complained of above were directly and proximately caused by the negligent acts and/or omissions of Defendants, Kaiser Foundation Health Plan of the Mid-

Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.C., individually and through their actual and/or apparent agents, servants and/or employees. Billie Jo Bonolis in no way contributed to the negligence described herein and relied upon the expertise of the Defendants Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.C., individually and through their actual and/or apparent agents, servants and/or employees, for her care and treatment.

WHEREFORE, the Plaintiffs bring action and seek damages in excess of Seventy-Five Thousand Dollars (\$75,000.00) plus costs.

COUNT II
(Loss of Consortium)

The Plaintiffs, Billie Jo Bonolis and Ron Bonolis, by their attorneys Roy L. Mason and the Law Offices of Roy L. Mason, P.A. hereby sue Defendants, Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.C., and for their causes of action state as follows:

41. The Plaintiffs hereby incorporate by reference and re-allege the allegations provided in the preceding paragraphs.

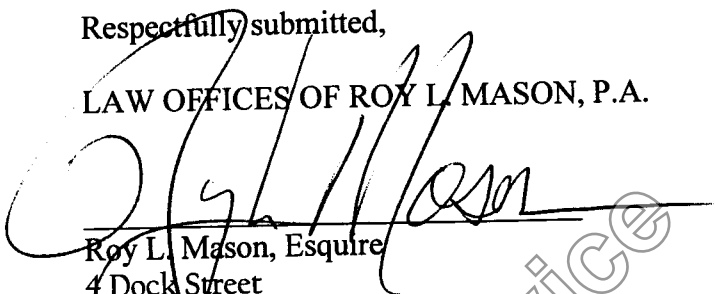
42. Ron Bonolis and Billie Jo Bonolis were husband and wife at the time of the occurrences referenced herein. They were married many years prior and remain married.

43. The negligent conduct of the Defendants, described herein, directly and proximately caused injury to the marital relationship of Plaintiffs, including a loss of society, affection, assistance, companionship, sexual relations and home services and activities.

WHEREFORE, the Plaintiff brings action and seeks damages in excess of Seventy-Five Thousand Dollars (\$75,000.00), plus costs.

Respectfully submitted,

LAW OFFICES OF ROY L. MASON, P.A.



Roy L. Mason, Esquire
4 Dock Street
2nd Floor
Annapolis, MD 21401
410-269-6620 *telephone*
410-269-5452 *facsimile*

Counsel for Plaintiffs

Courthouse News Service