

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

JOHNNY B. WRIGHT and
LINDA E. WRIGHT, his wife
6807 Forbes Blvd.
Lanham, MD 20706

Plaintiffs,

vs.

MID-ATLANTIC PERMANENTE
MEDICAL GROUP, P.C.
2101 E. Jefferson Street
Rockville, Maryland 20850

and

KAISER FOUNDATION HEALTH PLAN
OF THE MID-ATLANTIC STATES, INC.
2101 E. Jefferson Street
Rockville, Maryland 20850

and

HOLY CROSS HEALTH, INC.
1500 Forest Glen Road
Silver Spring, MD 20910

and

SUNRISE MEDICAL GROUP, LLC t/a
SUNRISE MEDICAL GROUP
3411 Olandwood Court, Suite 105
Olney Maryland 20832

and

THEODORE E. IGWEBE, M.D.
Holy Cross Hospital
1500 Forest Glen Road
Silver Spring Maryland 20910

Civil No.

Case: 331846
NEW CASE
CV CLERK FEE- 80.00
MD LEGAL SERV 55.00
TOTAL 135.00
Res# M082 Rcp# 58741
LEK DM Bk# 853
Jun 20, 2014 11:47 am

GREENBERG & BEDERMAN, LLP

ATTORNEYS AT LAW
1111 BONIFANT STREET
SILVER SPRING, MD 20910
(301) 589-2200

2014 JUN 20 AM 11:33

FILED
LONETTA C. WRIGHT
CLERK OF COURT

and

*

RACHEL VILE, M.D.
Holy Cross Hospital
1500 Forest Glen Road
Silver Spring, MD 20910

*

*

*

Defendants.

*

COMPLAINT
(Medical Negligence, Loss of Consortium, Jury Demand)

JOHNNY B. WRIGHT and LINDA E. WRIGHT, his wife, Plaintiffs, by and through their attorneys, John J. Sellinger and Greenberg & Bederman, LLP., sue MID-ATLANTIC PERMANENTE MEDICAL GROUP, P.C., KAISER FOUNDATION HEALTH PLAN OF THE MID-ATLANTIC STATES, INC., HOLY CROSS HEALTH, INC., SUNRISE MEDICAL GROUP, LLC, THEODORE E. IGWEBE, M.D., and RACHEL VILE, M.D., Defendants, for cause of action state:

1. This action was previously filed in the Health Care Alternative Dispute Resolution Office, HCA No.2013-568. Plaintiffs elected to waive health claims arbitration and an Order of Transfer was issued to the Circuit Court for Montgomery County, Maryland (Exhibit 1).
2. The amount of this claim exceeds Thirty Thousand Dollars (\$30,000.00) and venue is proper in Montgomery County, Maryland.
3. At all times relevant hereto, Plaintiffs Johnny B. Wright and Linda E. Wright, were and remain husband wife and are adult citizens of the United States and residents of the State of Maryland.

4. This claim arises out of care and treatment provided to the Plaintiff Johnny B. Wright by the Defendants Kaiser Foundation of the Mid-Atlantic States, Inc., and Mid-Atlantic Permanente Medical Group, P.C., acting by and through their agents, servants and employees beginning on December 17, 2010, at the Kaiser Permanente North Capitol Street facility and continuing through December 25, 2010, at Holy Cross Hospital in Silver Spring, Maryland., from December 19, 2010 through December 25, 2010, and by the Defendants Holy Cross Health, Inc., Sunrise Medical Group, LLC, Theodore E. Igwebe, M.D., and Rachel Vile, M.D., at Holy Cross Hospital in Silver Spring, Maryland, from December 19, 2010 through December 25, 2010.

5. At all times relevant hereto, the Defendant Kaiser Foundation of the Mid-Atlantic States, Inc., was and remains a for-profit corporation providing medical and surgical care to its members, including the Plaintiff Johnny B. Wright, within the District of Columbia and the State of Maryland.

6. At all times relevant hereto, the Defendant Mid-Atlantic Permanente Medical Group, P.C., was and remains a for-profit corporation which, upon information and belief, employs and supervises the physicians and other medical specialists who provide medical care to patients, including the Plaintiff Johnny B. Wright who are members of Kaiser Permanente.

7. The Defendants Kaiser Foundation of the Mid-Atlantic States, Inc., and Mid-Atlantic Permanente Medical Group, P.C., are responsible for the negligence of the Kaiser physicians who treated the Plaintiff Johnny B. Wright, including but not limited to Rumana T. Shameem, M.D., the Kaiser advice nurse whose identity is not known at this time, and the Kaiser physicians who participated in Plaintiff's care at Holy Cross Hospital

from December 19, 2010, through December 25, 2010, including, but not limited to, Sarah J. Bromeland, M.D., and Saadia J. Griffith-Howard, M.D., under the doctrine of *respondeat superior*.

8. At all times relevant hereto, the Defendant Holy Cross Health, Inc., was and remains a corporation doing business as "Holy Cross Hospital" and provides medical and surgical care for a profit in Silver Spring, Montgomery County, Maryland, and is the actual or apparent employer of the physicians and nursing staff who attended to the Plaintiff Johnny B. Wright from December 20-December 25, 2010

9. At all times relevant hereto, the Defendant Sunrise Medical Group, LLC, was and remains a for-profit corporation which, upon information and belief, employed the physicians and other medical specialists who provided medical care to the Plaintiff Johnny B. Wright in the Surgical Intensive Care Unit at Holy Cross Hospital, including, but not limited to, the Defendants Theodore Igwebe, M.D., and Rachel Vile, M.D.

10. At all times relevant hereto, the Defendant Theodore E. Igwebe, M.D., was and remains a physician licensed to practice medicine in the State of Maryland and practices the medical specialties of Internal Medicine and Critical Care Medicine.

11. At all times relevant hereto, the Defendant Rachel Vile, M.D., was and remains a physician licensed to practice medicine in the State of Maryland and practices the medical specialty of Internal Medicine.

12. In their care and treatment of the Plaintiff Johnny B. Wright, the Defendants Theodore E. Igwebe, M.D., and Rachel Vile, M.D., acted within the scope of their authority as the actual or apparent agents, servants or employees of the Defendants Holy Cross Health, Inc., and Sunrise Medical Group, LLC., which are responsible for their

negligence under the doctrine of *respondeat superior*.

13. On and before December 17, 2010, the Plaintiff Johnny B. Wright was a patient of the Defendants and was regularly seen and treated at the North Capitol Street Kaiser facility in the District of Columbia.

14. On December 16, 2010, Johnny B. Wright, was seen in the Emergency Department at Doctor's Community Hospital with complaints of pain in his right hand and wrist and back pain. He was diagnosed with a wrist strain, back strain and inflammatory arthritis. On Friday, December 17, 2010, at approximately 6:21 a.m., Mr. Wright called the Kaiser advice nurse Heather Thomas, prior to his previously scheduled appointment at the Kaiser Permanente North Capitol Street facility, to report that he had been seen the day before in the Emergency Department at Doctor's Community Hospital and that he was having "severe pain in his right hand/arm and back" and that the medication he was taking as prescribed by the Emergency Department at Doctor's Community Hospital on December 16, 2010, were not relieving his pain. An "emergent consult" was suggested.

15. On Friday, December 17, 2010, at 9:50 a.m., Plaintiff Johnny B. Wright was seen by Rumana T. Shameem, M.D., a Kaiser Permanente physician, for complaints of arm pain and neck pain. Dr. Shameem obtained an x-ray of Mr. Wright's neck for "neck pain." There were no significant findings on the neck x-ray. Dr. Shameem also obtained a CBC (complete blood count) and Plaintiff was treated with an IM injection of Toradol, and given a Prednisone dose pack and Oxycodone for his neck pain. Plaintiff was discharged by Dr. Shameem with diagnoses of "Wrist pain- Primary" and "Neck Pain."

16. The results of the CBC that had been ordered by Dr. Shameem were reported later on the afternoon of December 17, 2010, after Plaintiff had been discharged from the Kaiser facility and demonstrated a significantly elevated WBC count of 28,500. Additionally, the differential demonstrated neutrophils of 25,940 and monocytes of 1,140. These results indicated that Plaintiff was suffering from a significant infection. However, as it was now the weekend, no effort was made to notify Plaintiff of these laboratory results and Plaintiff was not treated for an infection.

17. On two occasions on the weekend of December 18-19, Plaintiff's wife Linda E. Wright called the Kaiser advice nurse to report that her husband's condition was deteriorating. She reported that Mr. Wright had a fever, was lethargic, and continued to have severe arm and neck pain. Linda Wright was not informed of the lab results and was advised to continue the prescribed treatment.

18. On Sunday, December 19, 2010, Plaintiff suffered a syncopal episode at home and was taken to Prince George's Hospital Center. In the early morning hours of December 20, 2010, he was transferred to Holy Cross Hospital as requested by Kaiser Permanente. Plaintiff was admitted to Holy Cross Hospital to Francis A. Freisinger, M.D., a Kaiser physician. At the time of his admission to Holy Cross Hospital, Plaintiff was complaining of neck and shoulder pain. At approximately 8:32 a.m., Plaintiff suffered an apparent arrest and a code blue was called. Plaintiff was suffering from a hemorrhage from an antral ulcer from the pain medications he had been taking, including those ordered the previous day by Dr. Shameem. Plaintiff was sedated and admitted to the Surgical Intensive Care Unit.

19. In the Surgical Intensive Care Unit, Plaintiff's care was jointly managed by Kaiser physicians, including, but not limited to, Sarah J. Bromeland, M.D., and Saadia J. Griffith-Howard, M.D., and by physicians employed by Holy Cross Health, Inc., and/or Sunrise Medical Group, LLC, including but not limited to the Defendants Theodore E. Igwebe, M.D., and Sarah Vile, M.D.

20. On December 22, 2010, cervical and thoracic MRI scans were ordered for Plaintiff to rule out an infection of his spine. Kaiser physicians Sarah J. Bromeland, M.D., and Saadia J. Griffith Howard, M.D., were in agreement that the MRI scans were needed to rule out a spinal infection. The MRI scans were ordered by the Defendant Rachel Vile, M.D.

21. On December 23, 2010, the cervical and thoracic MRI studies were performed for "syncope and bacteremia." Plaintiff Johnny B. Wright was in such severe pain that morphine and "versed boluses were necessary for the procedure." Plaintiff was still complaining of right upper extremity pain and neck pain. His temperature was now 101.3 degrees. The cervical MRI demonstrated edema and enhancement within the C5 and C6 vertebral bodies, increased fluid signal was noted within the C5-C6 disc, and enhancement within the pre-vertebral soft tissues from C4 to T-1. Discitis and osteomyelitis could not be excluded by the radiologist who noted that "evaluation is limited due to significant motion artifacts. Repeating the examination with proper sedation is recommended." However, the MRI was not repeated by Dr. Vile or by Dr. Igwebe or by Drs. Bromeland or Griffith-Howard.

22. On December 25, 2010, it was noted by a hospital nurse that Mr. Wright was unable to move his lower extremities and had weak movement of his upper extremities.

Neurology and Neurosurgical consultations were obtained and repeat cervical and thoracic MRIs were performed which demonstrated progression of Mr. Wright's spinal infection as well as compression of his spinal cord. On December 25, 2010, Joel Falik, M.D., performed an emergency posterior cervical decompression laminectomy from C3 to C7. At surgery, an epidural abscess from C4-C7 was found. Despite Dr. Falik's surgery, Plaintiff Johnny B. Wright had already suffered permanent neurologic injuries from the compression of his spinal cord by the spinal epidural abscess.

23. In its care of the Plaintiff Johnny B. Wright, the Defendants Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., and Mid-Atlantic Permanente Medical Group, P.C. acting by and through its actual or apparent agents, servants, employees, had a duty to provide Johnny B. Wright with the degree of care and attention which was reasonably required by his condition and to act in a reasonable and prudent manner.

24. The Defendants Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., and Mid-Atlantic Permanente Medical Group, P.C. were negligent, deviated from the standard of care applicable to its care and treatment of Johnny B. Wright, specifically including, but not limited to, the following:

- a. Negligent failure to diagnose and treat Plaintiff Johnny B. Wright's spinal infection from December 17, 2010, through December 25, 2010;
- b. Negligent failure to order necessary and appropriate diagnostic studies, including a cervical MRI on December 17, 2010, and after the results of the CBC were obtained;
- c. Negligent failure to inform Plaintiff Johnny B. Wright from December 17-19

that he was suffering from a severe infection and needed to be re-examined and treated with antibiotics;

d. Negligent failure to obtain a timely neurosurgical consult from December 17-19, 2010, and following the MRI of December 23, 2010;

e. Negligent failure to obtain a repeat cervical MRI on and after December 23, 2010;

f. Defendants Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., and Mid-Atlantic Permanente Medical Group, P.C. were otherwise negligent in their care and treatment of Plaintiff Johnny B. Wright.

25. In their care and treatment of the Plaintiff Johnny B. Wright, the Defendants Holy Cross Health, Inc., and Sunrise Medical Group, LLC., acting by and through their actual or apparent agents, servants and employees, including but not limited to the Theodore E. Igwebe, M.D., and Rachel Vile, M.D., had a duty to act as a reasonably competent hospital and health care providers in the same or similar circumstances.

26. In their care and treatment of the Plaintiff Johnny B. Wright, the Defendants Theodore E. Igwebe, M.D., Rachel Vile, M.D., Holy Cross Health, Inc., and Sunrise Medical Group, LLC., acting by and through their actual and apparent agents, servants and employees, including but not limited to the Defendants Theodore E. Igwebe, M.D. and Rachel Vile, M.D., were negligent, deviated from the standard of care and was guilty of medical negligence specifically including, but not limited to, the following:

a. Negligent failure to diagnose and treat Plaintiff Johnny B. Wright's spinal infection from December 19, 2010, through December 25, 2010;

b. Negligent failure to obtain a timely neurosurgical consultation following the

MRI of December 23, 2010;

c. Negligent failure to obtain a repeat cervical MRI on and after December 23, 2010;

d. Defendants Theodore E. Igwebe, M.D., Rachel Vile, M.D., Holy Cross Health, Inc., and Sunrise Medical Group, LLC, were otherwise negligent in their care and treatment of Plaintiff Johnny B. Wright.

COUNT ONE
(Medical Negligence)

Plaintiffs incorporate the facts and allegations of Paragraphs 1-26, hereof and for further cause of action state:

27. As a direct and proximate result of the aforesaid negligence of the Defendants Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., and Mid-Atlantic Permanente Medical Group, P.C., Holy Cross Health, Inc., Sunrise Medical Group, LLC, Theodore E. Igwebe, M.D., and Rachel Vile, M.D., Plaintiff Johnny B. Wright suffered severe and painful injuries, including ASIA C motor incomplete tetraplegia from which he is totally and permanently disabled as a result of an undiagnosed and untreated spinal infection and a spinal epidural abscess.

28. As a direct and proximate result of the aforesaid negligence of the Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., and Mid-Atlantic Permanente Medical Group, P.C., Holy Cross Health, Inc., Sunrise Medical Group, LLC, Theodore E. Igwebe, M.D., and Rachel Vile, M.D., Plaintiff Johnny B. Wright has suffered painful, severe, and permanent injuries, both physical and emotional, including permanent paralysis. He has incurred substantial expense for his medical, hospital, and surgical care

and treatment. He has incurred, and will in the future incur, a loss of income and a loss of his income producing ability. He has suffered inconvenience, humiliation, and a loss of the enjoyment of life and has been otherwise injured and damaged, all without any negligence on his part.

WHEREFORE, Plaintiff Johnny B. Wright claims and demands judgment against the Defendants Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., Mid-Atlantic Permanente Medical Group, P.C., Holy Cross Health, Inc., Sunrise Medical Group, LLC, Theodore E. Igwebe, M.D., and Rachel Vile, M.D., on this Count One, in an amount in excess of the jurisdictional minimum of this Court, plus interest and the costs of these proceedings.

COUNT TWO
(Loss of Consortium)

Johnny B. Wright and Linda E. Wright, Plaintiffs, incorporate the facts and allegations of Paragraphs 1-28 hereof and for further cause of action states:

29. At all times relevant hereto, the Plaintiffs Johnny B. Wright and Linda E. Wright were and remain husband and wife.

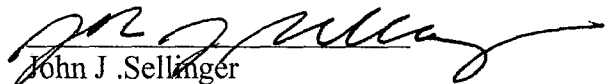
30. As a direct and proximate result of the aforesaid negligence of the Defendants Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., Mid-Atlantic Permanente Medical Group, P.C., Holy Cross Health, Inc., Sunrise Medical Group, LLC, Theodore E. Igwebe, M.D., and Rachel Vile, M.D., and the resultant injuries to Plaintiff Johnny B. Wright, Plaintiffs Johnny B. Wright and Linda E. Wright have suffered and will in the future continue to suffer injury and damage to their marital relationship, including but not limited to loss of companionship, affection, assistance and loss of impairment of sexual

2014 JUN 20 AM 11:33

FILED
LORETTA E. KNIGHT
CLERK'S OFFICE

relations.

WHEREFORE, Plaintiffs Johnny B. Wright and Linda E. Wright claim and demand judgment against the Defendants Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., Mid-Atlantic Permanente Medical Group, P.C., Holy Cross Health, Inc., Sunrise Medical Group, LLC, Theodore E. Igwebe, M.D., and Rachel Vile, M.D., on this Count Two in an amount in excess of the jurisdictional minimum of this Court, plus interest and the costs of these proceedings.



John J. Sellinger
Greenberg & Bederman, LLP
1111 Bonifant Street
Silver Spring, MD 20910
(301) 589-2200
(301) 589-9424 (fax)
jsellinger@gblawyers.com

Attorneys for Plaintiffs

JURY DEMAND

Plaintiffs demand a trial by jury on all issues so triable.



John J. Sellinger