

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

**MARIA URBINA, INDIVIDUALLY AND
AS PERSONAL REPRESENTATIVE OF
THE ESTATE OF MANUEL A. URBINA**
12904 Churchill Ridge Circle, Apt. #9
Germantown, Maryland 20874

and

MARTHA URBINA
19633 White Saddle Drive
Germantown, Maryland 20874

and

JUAN URBINA
19633 White Saddle Drive
Germantown, Maryland 20874

and

DAVID URBINA
19633 White Saddle Drive
Germantown, Maryland 20874

Plaintiffs,

v.

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

Serve on Resident Agent:
The Prentice-Hall Corporation System
7 St. Paul Street
Suite 820
Baltimore, Maryland 21202

and

Case: 418648
NEW CASE
CV CLERK FEE- 30.00
MD LEGAL SERV 35.00
RIF-NEW CASE 30.00
TOTAL 165.00
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MONTGOMERY CO. MD

**MID-ATLANTIC PERMANENTE
MEDICAL GROUP, P.C.**

2101 E. Jefferson Street
Rockville, Maryland 20852

Serve on Resident Agent:

The Prentice-Hall Corporation System
7 St. Paul Street
Suite 820
Baltimore, Maryland 21202

Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, Maria Urbina, Individually and as Personal Representative of the Estate of Manuel A. Urbina, Martha Urbina, Juan Urbina and David Urbina, by and through their undersigned attorneys, hereby sue the Defendants, Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.C, and for grounds state as follows:

JURISDICTION AND VENUE

1. This medical malpractice claim is instituted pursuant to MD. CTS. & JUD. PROC. ART. §§ 3-2A-01, *et seq.*, for the recovery of damages in excess of Thirty Thousand Dollars (\$30,000.00).
2. Plaintiffs aver that they have satisfied all conditions precedent to the filing of this lawsuit, including the filing of a Statement of Claim, Certificates of Qualified Expert and Reports, and Waiver of Health Claims Arbitration in the Health Care Alternative Dispute Resolution Office of Maryland.
3. The amount in controversy exceeds Thirty Thousand Dollars (\$30,000.00), exclusive of interest and costs.

4. Venue is proper in Montgomery County, Maryland as all the alleged acts and/or omissions of negligence occurred in Montgomery County.

5. Attached hereto and incorporated herein by reference are the Certificates of Qualified Expert and Reports of Joel K. Kahn, M.D. and Gary W. Crooks, M.D.

6. Attached hereto are Letters of Administration appointing Maria Urbina as Personal Representative of the Estate of Manuel A. Urbina.

PARTIES

7. Plaintiff Maria Urbina is of full age and a Maryland resident residing at the above-stated address. Ms. Urbina is the natural daughter of the Decedent, Manuel A. Urbina and is the Personal Representative of the Estate of Manuel A. Urbina.

8. Plaintiff Martha Urbina is of full age and a Maryland resident residing at the above-stated address. Ms. Urbina is the wife of the Decedent, Manuel A. Urbina.

9. Plaintiff Juan Urbina is of full age and a Maryland resident residing at the above-stated address. Mr. Urbina is the natural son of the Decedent, Manuel A. Urbina.

10. Plaintiff David Urbina is of full age and a Maryland resident residing at the above-stated address. Mr. Urbina is the natural son of the Decedent, Manuel A. Urbina.

11. At all times relevant hereto, Defendant Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. ("Kaiser Foundation") was, and is, a Maryland corporation engaged in providing health care services to individuals in need thereof, including the provision of medical services, advice and treatment to the Plaintiffs' Decedent, Manuel A. Urbina. At all times relevant hereto, Kaiser Foundation acted directly and/or by and/or through its actual and/or apparent agents, servants and/or employees, including, but not limited to, the following: Mina Son, M.D., Carol Cardinale, M.D., Hesun Kang, CRNP, Krupali Patel, CNMT, Densbury Alfred, CNMT, and John J. Lee, M.D.

12. At all times relevant hereto, Defendant Mid-Atlantic Permanente Medical Group, P.C. ("Mid-Atlantic Permanente") was, and is, a Maryland corporation engaged in providing health care services to individuals in need thereof, including the provision of medical services, advice and treatment to the Plaintiffs' Decedent, Manuel A. Urbina. At all times relevant hereto, Kaiser Foundation acted directly and/or by and/or through its actual and/or apparent agents, servants and/or employees, including, but not limited to, the following: Mina Son, M.D., Carol Cardinale, M.D., Hesun Kang, CRNP, Krupali Patel, CNMT, Densbury Alfred, CNMT, and John J. Lee, M.D.

13. At all times relevant hereto, the aforementioned Defendants, including their duly authorized actual and/or apparent agents, servants and/or employees, held themselves out to the public as health care providers who would render reasonably competent health care services to those individuals who came under their professional care.

FACTS COMMON TO ALL COUNTS

14. Plaintiffs hereby incorporate the preceding paragraphs, by reference thereto, as if fully stated herein.

15. Plaintiffs' Decedent, Manuel A. Urbina, was a 63-year-old gentleman who, on Monday, April 27, 2015, presented to the Kaiser Permanente Gaithersburg Medical Center with complaints of chest pain. Rather than evaluate Mr. Urbina's chest pain in the office at the time of his presentation, health care providers at Kaiser Permanente instructed Mr. Urbina to return to the office in two days.

16. On Wednesday, April 29, 2015, Mr. Urbina returned to the Kaiser Permanente Gaithersburg Medical Center with complaints of chest pain and left knee pain. Mr. Urbina was seen and evaluated by his primary care physician, Mina Son, M.D. An electrocardiogram (ECG) study was ordered by Dr. Son, performed that same day, and determined to be normal. Thereafter,

Mr. Urbina was sent home with no further instructions and/or interventions regarding his chest pain.

17. On Tuesday, June 30, 2015, Mr. Urbina returned to Dr. Son's office in the Kaiser Permanente Gaithersburg Medical Center with continued complaints of chest pain. Mr. Urbina's subjective complaints included left-sided chest pain, shortness of breath, and pain that radiated to his neck which persisted minutes after exertion. Mr. Urbina also indicated that the radiating neck pain presented when climbing up stairs and mowing the lawn, however, the patient was unable to reproduce these symptoms while walking around the office. An ECG was ordered by Dr. Son, performed that same day, and determined to be normal. A nuclear stress test (NST) was also ordered by Dr. Son, and scheduled for Thursday, July 2, 2015.

18. On Thursday, July 2, 2015, at approximately 7:00 a.m., Mr. Urbina returned to the Kaiser Permanente Gaithersburg Medical Center, as instructed, for the previously scheduled nuclear stress test. The following health care providers were involved, in some manner, with the clinical component of Mr. Urbina's nuclear stress test: Hesun Kang, CRNP (supervising practitioner); Krupali Patel, CNMT (nuclear medicine technician); and Densbury Alfred, CNMT (nuclear medicine technician).

19. Nuclear stress testing commenced with rest imaging at 7:14 a.m., followed by stress imaging at 9:44 a.m. The exercise stress testing component of the study began around 10:00 a.m., with active exercise and chemical stress for approximately 7 minutes, followed by 4-5 minutes of recovery time. Chest pain symptoms were reproduced within 3 minutes of exercise stress testing, and continued throughout the exercise and chemical components of the test, with resolution 2 minutes into recovery.

20. At approximately 10:56 a.m., following the completion of the NST, Mr. Urbina presented to his orthopaedic surgeon, Dr. Stephen Ilario, in the same medical building, for an

evaluation of his right knee pain. Mr. Urbina was diagnosed with degenerative joint disease and given a localized corticosteroid injection in his right knee. Dr. Ilario's office progress note from this visit was dictated at 11:41 a.m.

21. Thereafter, Mr. Urbina was sent home from the Kaiser Permanente Gaithersburg Medical Center, following the July 2, 2015 nuclear stress test, without referral to a hospital emergency department for cardiac workup and intervention.

22. Following Mr. Urbina's discharge home on July 2, 2015, the following health care providers were involved in some manner with the analytical component of Mr. Urbina's nuclear stress test and/or post procedure chart review: Carol Cardinale, M.D. (interpreting cardiologist); Hesun Kang, CRNP (chart review); and John J. Lee, M.D. (chart review).

23. On the afternoon of July 2, 2015, Dr. Carol Cardinale interpreted Mr. Urbina's nuclear stress test results, determined the study to be abnormal, and electronically signed the report at 3:08 P.M. The abnormal NST findings documented by Dr. Cardinale in Mr. Urbina's patient chart as of 3:08 P.M. on July 2, 2015 included the following: a large-size mild-to-moderate intensity area of ischemia involving the inferior wall and apex; ischemic ECG changes; and angina symptoms during testing protocol.

24. Thereafter, on the afternoon of July 2, 2015, Mr. Urbina's patient chart, documenting the abnormal NST findings and results, was reviewed and electronically signed by Hesun Kang, CRNP, at approximately 3:12 P.M., and by Dr. John L. Lee, at approximately 4:08 P.M.

25. Later that same day on July 2, 2015, Mr. Urbina received a telephone call from an unknown Kaiser Permanente representative informing him that his NST results were abnormal and that he should follow up with a cardiologist. A follow-up cardiology appointment was scheduled for July 8, 2015 – six (6) days later.

26. At approximately 7:52 P.M on the evening of July 2, 2015, Mr. Urbina was transported emergently from his home in Germantown, Maryland, to the Shady Grove Adventist Hospital Emergency Room. Upon arrival, Mr. Urbina was diagnosed with acute coronary syndrome with a likely acute ST segment elevation inferior myocardial infarction, shock, respiratory failure, and an unstable cardiac rhythm. Efforts were made to stabilize Mr. Urbina in the emergency room, however, such efforts were unsuccessful, and Mr. Urbina was pronounced dead at 8:59 P.M. The Death Certificate identified the immediate cause of death as "acute myocardial infarction."

COUNT I
(Medical Negligence – Survival Action)

27. Plaintiffs hereby incorporate the preceding paragraphs, by reference thereto, as if fully stated herein.

28. At all times relevant hereto, the above-captioned Defendants, acting individually and/or by and/or through their actual and/or apparent agents, servants and/or employees, real and/or ostensible, including Mina Son, M.D., Carol Cardinale, M.D., Hesun Kang, CRNP, Krupali Patel, CNMT, Densbury Alfred, CNMT, and John J. Lee, M.D., owed to the Plaintiffs and the Plaintiffs' Decedent a duty of care to exercise that degree of care, skill, and judgment ordinarily possessed by a reasonably competent health care provider, with similar education, training and experience, and under like or similar circumstances.

29. At all times relevant hereto, the Defendants Kaiser Foundation and Mid-Atlantic Permanente, acting individually and/or by and/or through their actual and/or apparent agents, servants and/or employees, real and/or ostensible, including Mina Son, M.D., Carol Cardinale, M.D., Hesun Kang, CRNP, Krupali Patel, CNMT, Densbury Alfred, CNMT, and John J. Lee, M.D., jointly and severally, were negligent in their care and treatment of the Plaintiffs' Decedent,

and breached the aforesaid duty of care owed to the Plaintiffs' Decedent and fell below the accepted standards of care in the following ways, among others:

- a. Failure to conduct and perform appropriate, timely and complete examinations, evaluations, and tests;
- b. Failure to timely and adequately recognize, diagnose and/or appropriately treat the Plaintiffs' Decedent's true and serious medical condition;
- c. Failure to appropriately and timely react to signs, symptoms, and findings which were illustrative of the Plaintiffs' Decedent's true and serious medical condition;
- d. Failure to obtain appropriate, timely and necessary consultations with specialists and/or utilize information then known to the Defendants;
- e. Failure to timely order appropriate intervention to prevent the Plaintiffs' Decedent's untimely and tragic death;
- f. Failure to timely conduct and document an appropriate and thorough patient history detailing the nature and extent of the Plaintiffs' Decedent's chest pain;
- g. Failure to perform an appropriate physical examination to thoroughly evaluate the true cause of Plaintiffs' Decedent's chest pain;
- h. Failure to timely refer Plaintiffs' Decedent to a cardiologist for evaluation of his chest pain;
- i. Failure to timely schedule Plaintiffs' Decedent for a nuclear stress test;
- j. Failure to recognize and timely react to the true signs and symptoms of acute coronary syndrome;
- k. Failure to recognize and timely react to the true signs and symptoms of low-threshold unstable angina;
- l. Failure to recognize and timely react to the true signs and symptoms of ST segment elevation during the course of exercise stress testing;
- m. Negligently administering chemical stress following replication of chest pain symptoms during exercise stress testing;
- n. Failure to timely and contemporaneously recognize abnormal stress testing results;

- o. Failure to properly and timely inform Plaintiffs' Decedent regarding the abnormal nuclear stress test findings and results;
- p. Failure to timely and emergently refer Plaintiffs' Decedent to a hospital emergency department for an appropriate cardiac workup and intervention; and
- q. The Defendants were in other ways negligent.

30. As a direct and proximate result of the above-mentioned deviations from the applicable standards of care by the Defendants, the Plaintiffs' Decedent's true and serious cardiac condition went undiagnosed and untreated.

31. Had the standards of care been complied with, Plaintiffs' Decedent would have avoided all of his injuries and damages, including his tragic and untimely death.

32. As a further direct and proximate result of the above-mentioned deviations from the applicable standards of care, Plaintiffs' Decedent, Manuel A. Urbina, suffered and sustained the following injuries and damages, among others:

- a. Conscious physical pain and suffering;
- b. Mental and emotional distress and anguish;
- c. Severe bodily injuries and discomfort;
- d. Loss of the ability to enjoy the normal pleasures of life;
- e. Loss of the ability to engage in life's usual activities;
- f. Medical expenses;
- g. Loss of past, present and future wages and income;
- h. Funeral and burial expenses;
- i. Untimely death; and
- j. Other injuries and damages.

33. The injuries and damages complained of herein were directly and proximately caused by the joint and several negligence and lack of due care by the Defendants, Kaiser Foundation and Mid-Atlantic Permanente, acting individually and/or by and/or through their actual and/or apparent agents, servants and/or employees, real and/or ostensible, including Mina Son, M.D., Carol Cardinale, M.D., Hesun Kang, CRNP, Krupali Patel, CNMT, Densbury Alfred, CNMT, and John J. Lee, M.D., with no negligence on the part of the Plaintiffs and/or the Plaintiffs' Decedent contributing thereto.

WHEREFORE, Plaintiffs bring this action against the above-captioned Defendants, jointly and severally, for all injuries and damages suffered and sustained by the Plaintiffs' Decedent Manuel A. Urbina, and for any other damages to which he would have been entitled had he survived his injuries, in an amount in excess of the required jurisdictional amount specified in MD. CTS. & JUD. PROC. ART. §§ 3-2A-02(a) and (b), exclusive of interest and costs, and for any other legal or equitable relief as justice may require.

COUNT II
(Medical Negligence – Wrongful Death)

34. Plaintiffs hereby incorporate the preceding paragraphs, by reference thereto, as if fully stated herein.

35. As a direct and proximate result of the joint and several negligence of the Defendants, Kaiser Foundation and Mid-Atlantic Permanente, acting individually and/or by and/or through their actual and/or apparent agents, servants and/or employees, real and/or ostensible, including Mina Son, M.D., Carol Cardinale, M.D., Hesun Kang, CRNP, Krupali Patel, CNMT, Densbury Alfred, CNMT, and John J. Lee, M.D., the Plaintiffs have suffered and will continue to suffer mental anguish, emotional pain and suffering, loss of society, companionship, comfort, protection, guidance, attention, care, advice, consortium, solatium, and counsel, as well as

pecuniary damages, including loss of support and household services, amongst other things, in connection with the sudden, tragic and untimely death of the Plaintiffs' Decedent, Manuel A. Urbina.

36. The injuries and damages complained of herein were directly and proximately caused by the joint and several negligence and lack of due care by the Defendants, Kaiser Foundation and Mid-Atlantic Permanente, acting individually and/or by and/or through their actual and/or apparent agents, servants and/or employees, real and/or ostensible, including Mina Son, M.D., Carol Cardinale, M.D., Hesun Kang, CRNP, Krupali Patel, CNMT, Densbury Alfred, CNMT, and John J. Lee, M.D., with no negligence on the part of the Plaintiffs and/or the Plaintiffs' Decedent contributing thereto.

WHEREFORE, Plaintiffs bring this action against the above-captioned Defendants, jointly and severally, for all injuries and damages suffered and sustained by the Plaintiffs, and for any other damages to which the Plaintiffs are entitled, in an amount in excess of the required jurisdictional amount specified in MD. CTS. & JUD. PROC. ART. §§ 3-2A-02(a) and (b), exclusive of interest and costs, and for any other legal or equitable relief as justice may require.

Respectfully submitted,

**WAIS, VOGELSTEIN,
FORMAN & OFFUTT, LLC**



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Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

The Plaintiffs, by and through their undersigned counsel, hereby demand a trial by jury on all issues raised herein.

Respectfully submitted,

**WAIS, VOGELSTEIN,
FORMAN & OFFUTT, LLC**



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