

IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA  
Civil Division

CHRISTOPHER A. KIM, Individually :  
and as Personal Representative of the :  
Estate of KYONG S. KIM, deceased :  
2081 Laura Mews Place :  
Alexandria, VA 22303 :

Plaintiff, :

v. :

KAISER FOUNDATION HEALTH :  
PLAN OF THE MID-ATLANTIC :  
STATES, INC. :  
One Kaiser Plaza :  
Oakland, CA 94612 :  
Serve: Registered Agent :  
Prentice-Hall Corporation System, Inc. :  
1090 Vermont Avenue, N.W. :  
Washington, D.C. 20005 :

Case no: 2017 CA 005632 M

MID-ATLANTIC PERMANENTE :  
MEDICAL GROUP, P.C. :  
2101 East Jefferson Street :  
Rockville, MD 20852 :  
Serve: Registered Agent :  
Corporation Service Company :  
1090 Vermont Avenue, N.W. :  
Washington, D.C. 20005 :

Defendants

COMPLAINT

COMES NOW the Plaintiff, by and through undersigned counsel, Catherine D. Bertram, Bertram & Amell, PLLC, Joseph Cammarata, and Chaiken, Sherman, Cammarata & Siegel, and files this Complaint against the Defendants Kaiser Foundation

Health Plan of the Mid-Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.C., on the grounds and in the amount set forth below.

### **JURISDICTION AND VENUE**

1. The jurisdiction of this Court is founded on D.C. Code § 11-921 as the events and damages set forth herein occurred in the District of Columbia.

2. Written notice of the allegations and claims was given to the Defendants in a letter dated March 22, 2017, which is more than 90 days prior to the filing of this Complaint.

### **PARTIES**

3. Plaintiff Christopher Kim is a United States Citizen residing in the Commonwealth of Virginia. He is the son of the Kyong Sook Kim.

4. On or about June 13, 2016, Christopher Kim was appointed as Administrator of the Estate of his mother, Kyong Sook Kim by the Register of Wills in Prince William County Circuit Court, Virginia where he and the decedent resided.

5. Plaintiff's Decedent, Kyong Sook Kim, was 58 years old at the time of her death. She was an otherwise active, healthy woman.

6. At all times relevant, Defendant Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. (hereinafter "KFHPMAS") was in the business of providing health care services, through its employees and/or real and/or ostensible agents to those in need thereof both at the hospital and in an outpatient setting. The hospital care took place in the District of Columbia at MedStar Washington Hospital Center ("MWHC").

7. At all times relevant, Defendant Mid-Atlantic Permanente Medical Group (hereinafter "MAPMG") was in the business of providing health care services, through its employees and/or agents in Washington D.C. and had a contract with MWCH to provide in-patient health care to its members at MWHC on certain units.

8. At all times relevant hereto Plaintiff's decedent Kyong Sook Kim received medical care, prescriptions, orders for imaging and other health care services, including care in the emergency room and hospital, from and through the employees and/or real and/or ostensible agents of Defendants, including but not limited to all physicians and nurses who cared for the plaintiff's decedent while at MWHC.

### **FACTS**

9. On or about May 6, 2016, K.S. Kim presented to the Defendants ED/Urgent Care with difficulty breathing and was transferred to MWHC for an emergent admission to treat her tracheal stenosis.

10. At the time of her emergency presentation, Ms. Kim had a 1-week history of gradually worsening shortness of breath. Ms. Kim had been treated as an outpatient at Kaiser Permanente with steroids and nebulizer therapy without success. The Defendants' physicians had made the decision to admit her to MWHC so Interventional Pulmonology could perform an in-patient tracheal dilatation at MWHC.

11. The plan by the Defendants was to have Ms. Kim admitted to Medstar Washington Hospital Center for tracheal dilatation by Dr. Wang-Memoli.

12. However, no timely consultation request was made by Defendants to Dr. Wang-Memoli to see the patient by Defendants.

13. Ms. Kim was not even seen by Defendants' attending physician until May 7, 2016, when she was seen by Dr. Carmita Gobern.

14. No orders were given from the time of admission through her sudden death to monitor the decedent's airway, oxygen saturations or to avoid solid food intake.

15. On May 7, 2016, while under the care of the Defendants she was allowed to eat lunch without supervision and was not assessed after solid food intake. Ms. Kim was unattended and was unable to breathe. She was left unattended for a sufficient period to turn blue and go into respiratory arrest. She became unresponsive and a rapid response for critical airway was called, which ultimately became a Code Blue. At the time she was not on any type of medical monitoring that would have alerted staff to her deteriorating condition. A bedside trach was finally placed by anesthesia once the Code was called.

16. Upon transfer to the ICU, Ms. Kim's blood pressure was not obtainable, with only faint femoral pulse, an A-line was attempted to be placed, and her trach site was bleeding profusely. Ms. Kim began bleeding from her oral cavity and coughing up blood. A second Code Blue was initiated, but Ms. Kim was pronounced dead on May 7, 2016.

**COUNT I**  
**(Survival Action Claim)**

17. Plaintiff incorporates paragraphs 1 through 16 herein.

18. At all times relevant hereto, Defendants, acting individually and/or through their respective employees and/or real and/or ostensible agents, including, but not limited

to, nurses and physicians caring for Plaintiff's decedent by, including but not limited to, the following particulars:

a. Failure to issue, and for nursing to request, physician admission orders to protect this patient given her acute respiratory complaints and known worsening tracheal stenosis/compromised airway, including but not limited to: continuous pulse oximeter monitoring and no solid foods pending full evaluation and the performance of the dilatation;

b. Failure to obtain a prompt Interventional Pulmonology consult;

c. Failure to anticipate and intervene before the code and failure to promptly respond to the respiratory distress; and

d. Defendants were otherwise negligent;

19. As a direct and proximate result of the aforementioned negligence of the above-named Defendants, the Plaintiff's decedent, Kyong Sook Kim, suffered economic damages, mental anguish, extreme physical and emotional distress through and including the circumstances of her death.

WHEREFORE, Plaintiff, as the Personal Representative of the Estate of Kyong Sook Kim deceased, demands judgment against Defendants, jointly and severely, in the full sum of Ten Million Dollars (\$10,000,000.00), plus costs and interest.

**COUNT II**  
**(Wrongful Death)**

20. Plaintiff incorporates paragraphs 1 through 19 herein.

21. At all times relevant hereto, Defendants, individually and acting through their respective employees and/or real and/or ostensible agents, including, but not limited to, nurses and physicians caring for Plaintiff's decedent by, including but not limited to, the following particulars:

- a. Failure to issue, and for nursing to request, physician admission orders to protect this patient given her acute respiratory complaints and known worsening tracheal stenosis/compromised airway, including but not limited to: continuous pulse oximeter monitoring and no solid foods pending full evaluation and the performance of the dilatation;
- b. Failure to obtain a prompt Interventional Pulmonology consult;
- c. Failure to anticipate and intervene before the code and failure to promptly respond to the respiratory distress; and
- d. Defendants were otherwise negligent;

22. As a direct and proximate result of the aforementioned negligence of the above-named Defendants, The Estate of Kyong Sook Kim, by and through Christopher Kim as Administrator, and Christopher Kim individually, sustained losses and damages including medical bills, future lost wages, funeral and burial expenses, the pecuniary value of services performed by decedent, loss of companionship and advice, and all other claims and damages allowed by law.

WHEREFORE, Plaintiff, as the Administrator of the Estate of Kyong Sook Kim, deceased, demands judgment against Defendants, jointly and severally, in the full sum of Ten Million Dollars (\$10,000,000.00), plus costs and interest.



**COUNT III**  
**(Lack of Informed Consent)**

23. Plaintiff incorporates herein by reference the allegations set forth in numbered paragraphs 1 through 22.

24. The Plaintiff's decedent was never informed of the recognized standard of care and practice in this community and nationally with regard to how to safely monitor her condition and how to promptly treat her worsening condition nor was she warned of the risks of remaining unmonitored as her condition worsened or the risk of eating solid foods with her stenosis.

25. Had Plaintiff's decedent been informed of the recognized treatment and monitoring options and the known risks of eating and not being monitored, she would have elected to forgo solid foods and to have safety monitoring so avoid her death.

26. Any reasonable patient would have elected to avoid solid food and have the safety monitoring prior to the procedure if the options and risks had been explained in a timely fashion.

27. The Defendants' failure to provide informed consent was a proximate cause of the wrongful death of Ms. Kim.

28. As a result of Defendants' failure to provide timely informed consent, the Plaintiff's decedent suffered economic damages, physical pain and injury, and severe and enduring emotional distress and death.

WHEREFORE, Plaintiffs demand judgment against Defendants jointly and severally, in the full sum of Ten Million Dollars (\$10,000,000.00), plus costs and interest.

Respectfully submitted,

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