

FILED

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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

GERALD JONES, Individually and as
Executor of the ESTATE OF DEBORAH
LEE JONES, deceased
237 Parkway Boulevard
Madison, Ohio 44057

Plaintiff,

vs.

KAISER PERMANENTE a/k/a KAISER
FOUNDATION HEALTH PLAN OF OHIO
c/o Kaiser Foundation Health Plan of Ohio
1001 Lakeside Avenue, Suite 1200
Cleveland, Ohio 44114

and

OHIO PERMANENTE MEDICAL GROUP
c/o Its Statutory Agent
ACFB INCORP
200 Public Square, Suite 2300
Cleveland, OH 44114
and

DAVID ACQUAH, M.D.
c/o Kaiser Permanente of Ohio
Cleveland Heights Medical Center
10 Severance Cir.
Cleveland Heights, Ohio 44118

and

DAVID RADEBAUGH, M.D.
c/o Kaiser Permanente of Ohio
Cleveland Heights Medical Center
10 Severance Cir.
Cleveland Heights, Ohio 44118

Defendants.

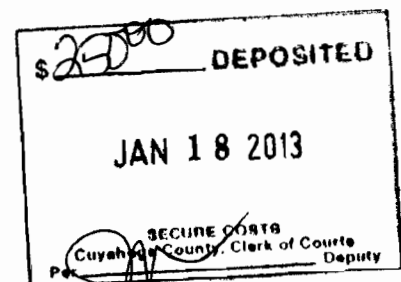
CASE NO.

JUDGE

Complaint
KATHLEEN ANN SUTUL
CV 13 799764

**COMPLAINT WITH AFFIDAVIT
OF MERIT ATTACHED**

(Jury Demand Endorsed Hereon)



Now comes Plaintiff Gerald Jones, Individually and as Executor of the Estate of Deborah Lee Jones, by and through counsel, and for his Complaint, states as follows:

WRONGFUL DEATH

1. Plaintiff Gerald Jones is the duly qualified and appointed Executor of the Estate of Deborah Lee Jones (hereinafter referred to as "Decedent") by the Probate Court of Lake County, Ohio, Case No. 11 ES 0315.

2. Plaintiff Gerald Jones, as Executor, brings this wrongful death action as the personal representative for the exclusive benefit of the beneficiaries and other next-of-kin of the Decedent. At all times relevant herein, Gerald Jones and Deborah Lee Jones were married until her death on January 22, 2011.

3. Plaintiff's Decedent Deborah Lee Jones was, at all pertinent times herein, a member of the Kaiser Foundation Health Plan and was treated by various physicians, employee and agents of Kaiser Foundation Health Plan of Ohio, Kaiser Foundation Health Plan, Inc., Ohio Permanente Medical Group, Inc. and Kaiser Permanente (hereinafter "Kaiser Defendants") from approximately 1987 until the time of her death on January 21, 2011.

4. Plaintiff's Decedent Deborah Lee Jones received medical care from the Defendants in various locations throughout Cuyahoga County, including the Kaiser Defendants' facility at 10 Severance Cir., Cleveland Heights, Ohio 44118.

5. At all times relevant herein, the Kaiser Defendants are incorporated in Ohio and are licensed to transact business in the State of Ohio.

6. The Kaiser Defendants conduct business in Cuyahoga County and provided medical care to Plaintiff's Decedent in Cuyahoga County and, therefore, this case is properly venued in this Court.

7. At all times relevant herein, the Kaiser Defendants held themselves out, individually, as providing medical services to the public by and through their employees and/or agents including, but not limited to, Defendant David Acquah, M.D. (hereinafter referred to as "Dr. Acquah") and Defendant David Radebaugh, M.D. (hereinafter referred to as "Dr. Radebaugh").

8. Defendants Dr. Acquah and Dr. Radebaugh are medical doctors licensed to practice medicine in the State of Ohio and do so in the specialty of Radiology and are shareholders, partners, agents or employees of Kaiser Foundation Health Plan of Ohio, Kaiser Health Plan, Inc., Ohio Permanente Medical Group, Inc. and Kaiser Permanente.

9. Defendant Dr. Acquah and Defendant Dr. Radebaugh each had a duty to provide prudent and competent medical care to Plaintiff's Decedent.

10. Beginning in 2006, Plaintiff's Decedent was under radiologic surveillance for the potential development of lung pathology. On November 23, 2009 a chest x-ray performed on Plaintiff's Decedent at Kaiser Permanente of Ohio revealed a questionable new nodule in the left lung and the Kaiser Radiologist who interpreted the chest x-ray recommended a CT examination of the chest.

11. On December 2, 2009, a chest CT scan of Plaintiff's Decedent at Kaiser Permanente revealed a new mass in the left lung which was unrecognized by Kaiser Permanente Radiologist, Defendant Dr. Acquah.

12. Defendant Dr. Acquah's failure to identify and recognize the new mass in Plaintiff Decedent's left lung was a departure from accepted standards of care.

13. On March 9, 2010, a chest CT scan with contrast of Plaintiff's Decedent at Kaiser Permanente was interpreted by Defendant Radebaugh as being unchanged from the previous CT scan on December 2, 2009.

14. Defendant Radebaugh failed to identify and recognize the left lung mass, first seen on the November 23, 2009 chest x-ray. The left lung mass on the March 9, 2010 CT scan had increased in size since the previous CT scan on December 2, 2009.

15. On October 25, 2010, a chest CT scan of Plaintiff's Decedent revealed a 3.3 x 2.1cm mass which had been unidentified and unrecognized in the previous CT scans and radiologic surveillance.

16. On or about November 11, 2010, Plaintiff's Decedent was advised that she had lung cancer, the cell type of which was subsequently confirmed as non-small cell lung adenocarcinoma.

17. On December 23, 2010, Plaintiff's Decedent underwent a PET CT scan at a Kaiser Defendant's facility that was interpreted by a Kaiser Radiologist, Mangesh Kanvinde, M.D., who confirmed the presence of the left lung mass and noted: "This mass was previously seen on the CT scan of 3-11-2011 and measured approximately 12 mm at the time..."

18. Plaintiff's Decedent died on January 22, 2011 at the age of 57 and her Certificate of Death identifies the immediate cause of death as bacterial sepsis due to metastatic lung cancer.

19. The Kaiser Defendants and Defendants Dr. Acquah and Dr. Radebaugh, individually, and through their agents and/or employees, all acting within the scope of their agency or employment, rendered substandard care and were otherwise negligent and departed from the applicable standard of care by failing to properly interpret radiographic studies and treat Deborah Lee Jones for signs and symptoms of lung cancer.

20. As a direct and proximate result of the aforementioned negligence, Plaintiff's Decedent condition was allowed to change from being curative to non-curative and untreatable. Plaintiff's Decedent died on January 22, 2011.

21. As a direct and proximate result of the Defendants negligence, Decedent's beneficiaries suffered damages for the loss, support, society, companionship, consortium, care, assistance, attention, protection, advice, instruction, training and education.

22. Decedent's beneficiaries suffered damages for the mental anguish caused by Decedent's death.

23. Decedent's beneficiaries suffered damages for reasonable funeral and burial expenses.

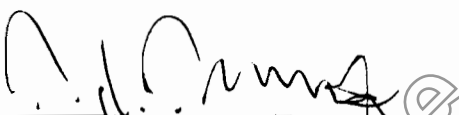
24. Pursuant to Ohio Civ. R. 10(D)(2)(a), an Affidavit of Merit is attached to this Complaint.

WHEREFORE, Plaintiff demands judgment against all Defendants, jointly and severally, on all counts, in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00) and for such other relief that the Court deems just and reasonable.

JURY DEMAND

Pursuant to Rule 38(B) of the Ohio Rules of Civil Procedure, a trial by the maximum number of jurors permitted by law is hereby demanded.

Respectfully submitted,



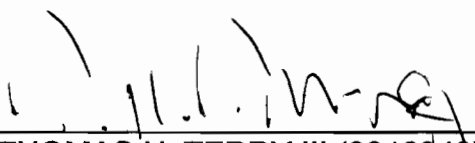
THOMAS H. TERRY III (0016340)
THOMAS H. TERRY III CO., L.P.A.
619 Cahoon Road
Bay Village, Ohio 44140
Telephone: 440-799-5398
Facsimile: 440-871-8039
E-mail: tterry@tterry-law.com

Counsel for Plaintiff
Gerald Jones

PRAECIPE FOR SERVICE

TO THE CLERK OF COURTS:

Please issue summons, together with a certified copy of the Complaint upon Defendant(s) at the address set forth in the caption of the Complaint, by U.S. certified mail, and make the same returnable according to law.



THOMAS H. TERRY III (0016340)
Counsel for Plaintiff
Gerald Jones