

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

MARIE ISAAC, and
RICHARD ISAAC

Plaintiffs,

vs.

THE SOUTHEAST
PERMANENTE MEDICAL
GROUP, INC.

First Defendant, and

KAISER FOUNDATION HEALTH
PLAN OF GEORGIA, INC.,

Second Defendant, and

F. SUSAN MAEDA, M.D.

Third Defendant, and

EUGENE MASO, M.D.

Fourth Defendant.

13 C 03054 1

CIVIL ACTION FILE

NO. _____

JURY DEMAND

RICHARD ALEXANDER, CLERK

2013 MAY -7 PM 3:38

FILED IN OFFICE
CLERK STATE COURT
GWINNETT COUNTY, GA

COMPLAINT FOR DAMAGES

COME NOW, MARIE ISAAC and RICHARD ISAAC, Plaintiffs in the above-styled action, and make this their Complaint for Damages, showing the Court as follows:

1.

First Defendant, THE SOUTHEAST PERMANENTE MEDICAL GROUP, INC., is a Georgia corporation whose registered agent for service of process is Corporation Service Company located at 40 Technology Parkway South, #300, Norcross, Gwinnett County, Georgia 30092. THE SOUTHEAST PERMANENTE MEDICAL GROUP, INC. may be served with process at the above address and is subject to the jurisdiction and venue of this Court.

2.

Second Defendant, KAISER FOUNDATION HEALTH PLAN OF GEORGIA, INC., is a Georgia corporation whose registered agent for service of process is Corporation Service Company located at 40 Technology Parkway South, #300, Norcross, Gwinnett County, Georgia 30092. KAISER FOUNDATION HEALTH PLAN OF GEORGIA, INC. may be

served with process at the above address and is subject to the jurisdiction and venue of this Court.

3.

Third Defendant, F. SUSAN MAEDA, M.D., is a medical doctor who resides at 475 Franklin Road, North East, Atlanta, Fulton County, Georgia 30342-2712 and maintains a professional address at 20 Glenlake Parkway, North East, Atlanta, Fulton County, Georgia 30328. F. SUSAN MAEDA, M.D. may be served with process at the above addresses and is subject to the jurisdiction and venue of this Court.

4.

Fourth Defendant, EUGENE MASO, M.D., is a medical doctor who resides at 925 Brooksglen Drive, Roswell, Fulton County, Georgia 30075-1366 and maintains a professional address at 20 Glenlake Parkway, North East, Atlanta, Fulton County, Georgia 30328. EUGENE MASO, M.D. may be served with process at the above addresses and is subject to the jurisdiction and venue of this Court.

COUNT I

5.

On or about June 8, 2011, Plaintiff MARIE ISAAC was a patient at THE SOUTHEAST PERMANENTE MEDICAL GROUP OF GEORGIA, INC. and KAISER FOUNDATION HEALTH PLAN OF GEORGIA, INC. Third Defendant, F. SUSAN MAEDA, M.D., undertook to render medical care in the form of reading and interpreting the right breast diagnostic mammogram of Plaintiff, MARIE ISAAC.

6.

Third Defendant, F. SUSAN MAEDA, M.D., interpreted Plaintiff MARIE ISAAC's right breast diagnostic mammogram of June 8, 2011 as "BIRADS CODE 3 = Probably benign finding; short interval follow-up suggested". Third Defendant, F. SUSAN MAEDA, M.D., committed negligent acts and omissions and deviated from the standard of care by failing to appropriately read and interpret the mammogram of Plaintiff, MARIE ISAAC's right breast performed on or about June 8, 2011 and by failing to recommend additional diagnostic studies including an ultrasound and tissue biopsy.

7.

As a direct and proximate result of the negligent acts and omissions of Third Defendant, F. SUSAN MAEDA, M.D., there was a delay in diagnosis of Plaintiff, MARIE ISAAC's breast cancer and a progression of her breast cancer.

8.

As a direct and proximate result of the negligent acts and omissions of Third Defendant, F. SUSAN MAEDA, M.D., Plaintiff, MARIE ISAAC, sustained damages including pain, suffering, mental anguish and special damages including medical expenses and loss of wages and income.

9.

At all times relevant hereto, Third Defendant, F. SUSAN MAEDA, M.D., was an employee and agent of First Defendant, THE SOUTHEAST PERMANENTE MEDICAL GROUP, INC. and Second Defendant, KAISER FOUNDATION HEALTH PLAN OF GEORGIA, INC., and was acting within the course and scope of her relationship as an employee and agent of

First Defendant, THE SOUTHEAST PERMANENTE MEDICAL GROUP, INC
and Second Defendant, KAISER FOUNDATION HEALTH PLAN OF
GEORGIA, INC.

10.

Plaintiffs attach hereto and incorporate herein as Exhibit "A" the Affidavit of Michael Racenstein, M.D. Dr. Racenstein is a physician duly licensed to practice medicine in the State of Illinois, specializing in diagnostic radiology. Dr. Racenstein is board certified by the American Board of Radiology and practices and teaches in the field of diagnostic radiology. Dr. Racenstein meets all requirements of the Georgia Civil Practice Act and Georgia law for the rendering of an expert opinion against Third Defendant, F. SUSAN MAEDA, M.D. The aforementioned Affidavit sets forth at least one act of negligence against Third Defendant, F. SUSAN MAEDA, M.D. and thus, against First Defendant, THE SOUTHEAST PERMANENTE MEDICAL GROUP, INC. and Second Defendant, KAISER FOUNDATION HEALTH PLAN OF GEORGIA, INC., as required by O.C.G.A. § 9-11-9.1.

COUNT II

11.

The Plaintiffs incorporate by reference the allegations set forth in paragraphs one through ten above as though fully set forth and incorporated herein.

12.

Fourth Defendant, EUGENE MASO, M.D., interpreted Plaintiff MARIE ISAAC's bilateral mammogram of December 6, 2011, as "BIRADS CODE 2 = Benign finding". Fourth Defendant, EUGENE MASO, M.D., committed negligent acts and omissions and deviated from the standard of care by failing to appropriately read and interpret the mammogram of Plaintiff, MARIE ISAAC's right breast performed on or about December 6, 2011 and by failing to recommend additional diagnostic studies including an ultrasound and tissue biopsy.

13.

As a direct and proximate result of the negligent acts and omissions of Fourth Defendant, EUGENE MASO, M.D., there was a delay

in the diagnosis of Plaintiff, Marie Isaac's breast cancer and a progression of her breast cancer.

14.

As a direct and proximate result of the negligent acts and omissions of Fourth Defendant, EUGENE MASO, M.D., Plaintiff, MARIE ISAAC, sustained damages including pain, suffering, mental anguish and special damages including medical expenses and a loss of wages and income.

15.

At all times relevant hereto, Fourth Defendant, EUGENE MASO, M.D., was an employee and agent of First Defendant, THE SOUTHEAST PERMANENTE MEDICAL GROUP, INC. and Second Defendant, KAISER FOUNDATION HEALTH PLAN OF GEORGIA, INC., and was acting within the course and scope of his relationship as an employee and agent of First Defendant, THE SOUTHEAST PERMANENTE MEDICAL GROUP, INC. and Second Defendant, KAISER FOUNDATION HEALTH PLAN OF GEORGIA, INC.

16.

Plaintiffs attach hereto and incorporate herein as Exhibit "A" the Affidavit of Michael Racenstein, M.D. Dr. Racenstein is a physician duly licensed to practice medicine in the State of Illinois, specializing in diagnostic radiology. Dr. Racenstein is board certified by the American Board of Radiology and practices and teaches in the field of diagnostic radiology. Dr. Racenstein meets all requirements of the Georgia Civil Practice Act and Georgia law for the rendering of an expert opinion against Fourth Defendant, EUGENE MASO, M.D. The aforementioned Affidavit sets forth at least one act of negligence against Fourth Defendant, EUGENE MASO, M.D. and thus, against First Defendant, THE SOUTHEAST PERMANENTE MEDICAL GROUP, INC., and Second Defendant, KAISER FOUNDATION HEALTH PLAN OF GEORGIA, INC., as required by O.C.G.A. § 9-11-9.1.

COUNT III

17.

Plaintiffs incorporate by reference the allegations set forth in paragraphs one through sixteen above as though fully set forth and incorporated herein.

18.

Plaintiffs, RICHARD ISAAC and MARIE ISAAC, are husband and wife, having married on or about June 16, 1985.

19.

As a direct and proximate result of the above referenced negligent acts and omissions of Defendants, Plaintiff, RICHARD ISAAC, sustained damages including a loss of consortium.

COUNT IV

20.

Plaintiffs incorporate by reference the allegations set forth in paragraphs one through nineteen above as though fully set forth and incorporated herein.

21.

Plaintiffs, MARIE ISAAC and RICHARD ISAAC, contracted with Second Defendant, KAISER FOUNDATION HEALTH PLAN OF GEORGIA, INC., to provide certain health care services in a managed care environment. At all times relevant hereto, Third and Fourth Defendants, F. SUSAN MAEDA, M.D. and EUGENE MASO, M.D., provided services in connection with the aforementioned contract and within the course and scope of their employment and agency relationships with Second Defendant, KAISER FOUNDATION HEALTH PLAN OF GEORGIA, INC.

22.

At all times relevant hereto, Third Defendant, F. SUSAN MAEDA, M.D. and Fourth Defendant, EUGENE MASO, M.D., provided medical care and treatment to Plaintiff, MARIE ISAAC, within the course and scope of their employment and agency relationships with First Defendant, THE SOUTHEAST PERMANENTE MEDICAL GROUP, INC.

23.

The aforementioned care and treatment provided to Plaintiff, MARIE ISAAC, by Third and Fourth Defendants, F. SUSAN MAEDA, M.D. and EUGENE MASO, M.D., fell beneath the standards of the medical profession generally under like or similar circumstances and directly and proximately caused a loss to Plaintiff, MARIE ISAAC, including pain, suffering, mental anguish and special damages. Plaintiff, RICHARD ISAAC, sustained a loss of consortium.

24.

First Defendant, THE SOUTHEAST PERMANENTE MEDICAL GROUP, INC., and Second Defendant, KAISER FOUNDATION HEALTH PLAN OF GEORGIA, INC., are liable to the Plaintiffs for the negligent acts and omissions of Third and Fourth Defendants, F. SUSAN MAEDA, M.D. and EUGENE MASO, M.D., pursuant to the theory of respondeat superior.

25.


In reliance upon the holding of the Georgia Supreme Court in Allen v. Wright, 282 Ga. 9 (2007), there is no authorization filed contemporaneously with this Complaint as contemplated by O.C.G.A. §

9-11-9.2, since that Georgia statute is preempted by the Federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

WHEREFORE, Plaintiffs pray as follows:

- 1) That process issue requiring responses from all Defendants;
- 2) That Plaintiffs receive a trial by a jury of twelve (12);
- 3) That Plaintiffs receive a judgment in their favor and against Defendants in a sum to be determined by the enlightened conscience of the jury for pain, suffering, mental anguish and for special damages; and
- 4) That Plaintiffs receive such further and other relief the Court deems just and proper under the circumstances of this case.

RESPECTFULLY SUBMITTED this 7th day of May, 2013.



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