DISTRICT COURT, JEFFERSON COUNTY, COLORADO 100 Jefferson County Parkway Golden CO 80401	DATE FILED: July 30, 2013 2:57 PM FILING ID: 8FA197AECAED7
Plaintiff: N.C., a Minor Child, by her Parents and Next Friends, Michael Cronberg and Lori Cronberg, v. **Defendants:** Jennifer E. Wood, M.D.; Kaiser Permanente Medical Group; Kaiser Permanente Insurance Company; and Paul G. Moe, M.D.	▲COURT USE ONLY▲
THE OLSEN FIRM John R. Olsen, Reg. No. 9475 Diane MacArthur Brown, Reg. No. 16700 8362 Greenwood Drive Niwot, CO 80503 Phone: 303-652-1133 FAX: 303-652-3701 E-mail: olsenbrown@comcast.net *Attorneys for Plaintiff*	Case Number: Div. / Ctrm.:

COMPLAINT, JURY DEMAND AND CERTIFICATE OF REVIEW

Courthouse News Service

For her Complaint, Jury Demand and Certificate of Review against Defendants Jennifer E. Wood, M.D.; Kaiser Permanente Medical Group; Kaiser Permanente Insurance Company; and Paul G. Moe, M.D., Plaintiff N.C., a Minor Child, by her Parents and Next Friends, Michael Cronberg and Lori Cronberg, states as follows:

JURISDICTION AND VENUE

1. The Colorado Constitution, Art. VI, § 9, empowers the District Court as a trial court of record with general jurisdiction and original jurisdiction over all civil cases except as limited by statute. Plaintiff's damages exceed the jurisdictional requirement for this court.

2. Pursuant to Colorado Rule of Civil Procedure 98, venue is proper in Jefferson County, Colorado, as the plaintiff resides, and some of the acts complained of against her, occurred therein.

NATURE OF THE CASE

3. This is a medical malpractice case in which the defendants failed to timely diagnose gonadal dysgenesis (Turner Syndrome) in Minor Child N.C., causing her immediate and lifetime damages.

CERTIFICATE OF REVIEW

4. Under C.R.S. § 13-20-602, the below-signed counsel for plaintiff certifies that he has consulted with a person with expertise in the areas of alleged negligent conduct of defendants. The person with expertise with whom he has consulted has reviewed the known facts, including records, documents, and other materials which the professional has found to be relevant to the allegations of negligent conduct and, based on the expert's review of such facts, has concluded that the filing of the claims for relief do not lack substantial justification within the meaning of C.R.S. § 13-17-102(4). The person with expertise who has been consulted meets the requirements of C.R.S. § 13-64-401 and can demonstrate that, as a result of training, education, knowledge, and experience, the expert is competent to express opinions as to the negligent conduct alleged in the paragraphs of the Complaint.

PARTIES

5. Plaintiff N.C. is a minor child with birth date of September 21, 1998. She and her parents, Michael and Lori Cronberg, reside at 1880 S. Arbutus St., Lakewood, Colorado 80228.

6. Defendant Jennifer E. Wood, M.D. is a medical physician with office at 8383 W. Alameda Ave., Lakewood, Colorado 80226.

7. Defendant Kaiser Permanente Medical Group is an organization of medical providers with offices at 8383 W. Alameda Ave., Lakewood, Colorado 80226 and 10350 East Dakota Ave., Denver, CO 80231-1314. Any nurses working therefor are identified in this Complaint as "Kaiser Permanente nurses."

8. Defendant Kaiser Permanente Insurance Company is a medical insurance company with office at 8383 W. Alameda Ave., Lakewood, Colorado 80226. Any nurses working therefor are identified in this Complaint as "Kaiser Permanente nurses."

Courthouse News Service

9. Paul G. Moe, M.D. is a medical physician with office at 13123 E. 16th Avenue, Aurora, Colorado 80045.

ALLEGATIONS

10. The above paragraphs are incorporated herein.

11. Plaintiff was born with puffy feet. The possibility of plaintiff having gonadal dysgenesis (Turner Syndrome), which is a genetic disorder, was discussed with her pediatrician.

12. At the time, plaintiff's parents [hereinafter "Mr. and Mrs. Cronberg"] were unaware of a blood test that could diagnosis Turner Syndrome and at the time did not worry about it.

13. As plaintiff began growing slowly, and after her sister was born on April 2, 2000, Mrs. Cronberg began to ask Defendant Wood about plaintiff's slow growth.

14. Defendant Wood stated that children grow at different rates and even though plaintiff was on the low side of the growth scale, Defendant Wood was not concerned.

15. Defendant Wood asked if the Cronbergs had relatives that were short in stature. Mrs. Cronberg replied that they did not.

16. Mr. and Mrs. Cronberg asked Defendant Wood about the possibility that plaintiff could have Turner Syndrome, because her feet remained puffy.

17. Defendant Wood said no, as she said plaintiff did not have any other signs or symptoms of Turner Syndrome.

18. In kindergarten and first grade, plaintiff had difficulties focusing at school.

19. At a physical examination of plaintiff, Defendant Wood and Mrs. Cronberg discussed plaintiff's small size as compared to her sister. Plaintiff was a picky eater. Defendant Wood said plaintiff was growing okay although on the low end of the appropriate growth rate.

20. When plaintiff entered the second grade, Mr. and Mrs. Cronberg continued to be concerned about the possibility of Turner Syndrome as plaintiff was still in the low range for height and weight and was having difficulty with mathematics at school.

Courthouse News Service

21. The parents again saw Defendant Wood and asked if there was a test for Turner Syndrome. Defendant Wood said there was but she was sure plaintiff did not have Turner Syndrome and was just growing slowly.

22. Defendant Wood said the test for Turner Syndrome would not be performed because she did not feel it was necessary.

23. In the third grade, plaintiff displayed more unusual signs and symptoms. Her parents remained concerned with plaintiff's growth and difficulties she was having in school. The parents again expressed their concerns to Defendant Wood. Additional signs and symptoms included that plaintiff was now puckering her lips and her eyes were rolling back with her lower eyelids rolling forward.

24. Plaintiff's parents informed Defendant Wood that they had done research and that plaintiff not only had puffy feet and short stature, she also had a low hairline, low set ears, broad chest, was having a hard time staying focused and was having difficulty in mathematics, all signs or symptoms of Turner Syndrome.

25. Defendant Wood agreed to run the test for Turner Syndrome.

26. Plaintiff's blood was drawn and the parents were told that it would take one to two weeks to get the results and Defendant Wood's nurse would telephone Mr. and Mrs. Cronberg if the results were abnormal.

27. Mrs. Cronberg telephoned the nurse, who said the test results had not yet come back.

28. Mrs. Cronberg called again and the nurse told her the office would call if anything was abnormal, and that all of plaintiff's blood results came back normal.

29. Plaintiff also received an MRI examination for her facial tics. The test came back normal.

30. In the fourth grade, plaintiff continued to have difficulties focusing and with mathematics.

31. In the fifth grade, when plaintiff was 11 years old, Mr. and Mrs. Cronberg again contacted Defendant Wood about their concerns regarding plaintiff's slow growth and facial tics. Tests were done for ADD (Attention Deficit Disorder).

32. In the fall of 2009, Defendant Wood again examined plaintiff, who was having signs and symptoms of anxiety, was not able to focus normally, and was having difficulties in mathematics at school.

Courthouse News Service

33. Mrs. Cronberg telephoned the Kaiser Permanente office and asked about the Turner Syndrome test that was supposed to have been conducted on plaintiff on or about December 8, 2009. She was told by Defendant Wood's nurse -- "Brandi" -- that the blood test done was "insulin growth factor". Brandi said the growth test results were normal.

34. On or about December 30, 2009, Mr. and Mrs. Cronberg again asked Defendant Wood for plaintiff to be given a blood test for Turner Syndrome, and they also requested a referral for evaluation to The Children's Hospital.

35. In February 2010, plaintiff was seen by Scott Turner, a nurse practitioner, at The Children's Hospital. He was told of the parents' concerns about Turner Syndrome. Turner called in Defendant Moe to examine plaintiff, and the parents discussed with him their concerns about plaintiff's signs and symptoms, her puffy feet, low hair line, low-set ears, broad chest, high palette, difficulty in mathematics, anxiety and not being able to focus.

36. Defendant Moe looked at plaintiff, including at her bare feet, and stated, "Honey, you can put this to rest. You do not have to worry about this for the rest of your life. You do not have Turner Syndrome."

37. Mr. and Mrs. Cronberg asked Defendant Moe about the blood test for Turner Syndrome and he said plaintiff did not have a webbed neck, feet or hands and did not need the blood test.

38. On information and belief, Defendant Moe or someone working for him spoke with Defendant Wood, and Defendant Wood then cancelled a test for Turner Syndrome.

39. In the sixth grade, plaintiff continued the same signs and symptoms.

40. In the seventh grade, plaintiff and her sister were seen by Dr. Leeanne Coakley at the Kaiser Permanente clinic. Dr. Coakley asked many questions about family history, height of parents, siblings (if any others than plaintiff's sister, J.C.), and grandparents. She asked questions about school, did a physical exam and asked if menstruation had started.

41. Dr. Coakley showed Mrs. Cronberg growth charts confirming that plaintiff was very low in growth percentile based on weight-for-age (5.11%). She was also at 1.39% of growth percentile based on stature-for-age. Turner Syndrome was not discussed.

Courthouse News Service

42. The following day, Defendant Wood called the Cronbergs and stated that Dr. Coakley noticed a big discrepancy between plaintiff and her sister and that plaintiff was growing very slowly. Dr. Coakley requested that Defendant Wood contact the Cronbergs to discuss a blood test for plaintiff because of the possibility of Turner Syndrome.

43. Defendant Wood asked if we knew what this test was, and Mrs. Cronberg responded, "Yes, we have asked you to do the test several times in the past."

44. Defendant Wood stated she would order the test but was certain plaintiff did not have Turner Syndrome. She said that Dr. Coakley was very familiar with genetics and she trusted Dr. Coakley's opinion. Defendant Wood told Mrs. Cronberg that Dr. Coakley said plaintiff's growth was not at the expected rate, and she was questioning the possibility of Turner Syndrome.

45. The blood test for Turner Syndrome was done and came back with a diagnosis of Turner Syndrome.

46. Defendant Wood telephoned the Cronbergs on or about August 18, 2011, to report the test results confirming Turner Syndrome.

47. Defendant Wood said she was sorry.

48. Defendant Wood said words to the effect of, "I missed it. It is all right there."

49. Defendant Wood said she cancelled the Turner Syndrome blood test twice.

50. Defendant Wood said, as to cancelling the test, "I don't know why."

51. Defendant Wood said she cancelled the second blood test after discussing plaintiff's case with Defendant Moe.

52. At all pertinent times, nurses working in the care of plaintiff and those nurses discussed above were agents and employees, or working at the direction of, Defendants Wood, Kaiser Permanente Medical Group, and Kaiser Permanente Insurance Company. Thus, their actions and non-actions were the actions and non-actions of Defendants Wood, Kaiser Permanente Medical Group, and Kaiser Permanente Insurance Company.

53. The Kaiser Permanente nurses acted at all times as employees and agents of the defendants (except for Defendant Moe), and thus said defendants (except for Defendant Moe) are culpable for the conduct of the Kaiser Permanente nurses under a legal theory of respondeat superior, and also for negligent training, instruction and supervision of the nurses as described herein.

Courthouse News Service

54. Applicable standards of care required the defendants and the Kaiser Permanente nurses to competently treat patients (including plaintiff) under the circumstances of this case, including as to diagnosis and treatment of plaintiff and her Turner Syndrome.

55. Applicable standards of care required the defendants and the Kaiser Permanente nurses to order a test or tests for Turner Syndrome months and/or years before an appropriate test was finally ordered.

56. Applicable standards of care required the defendants and the Kaiser Permanente nurses to diagnose Turner Syndrome months and/or years before it was diagnosed.

57. Applicable standards of care required the defendants and the Kaiser Permanente nurses to properly treat plaintiff for her Turner Syndrome and surrounding medical issues months and/or years before any such proper treatment was begun.

58. Applicable standards of care required medical records to be kept reflecting the expressed concerns and requests of the Cronbergs regarding Turner Syndrome and the appropriate testing. Such medical records were not kept, which shortcoming is a breach of the pertinent standards therefor.

59. The above-cited standards were breached by the defendants.

60. Contrary to defendants' and Kaiser Permanente nurses' pertinent and applicable standards of care, the defendants failed to diagnose and treat plaintiff's Turner Syndrome and surrounding medical conditions in a timely and meaningful manner.

61. In addition, the defendants failed to follow their own policies, protocols and procedures for patient assessment, care and treatment under the circumstances of this case.

62. Alternatively, the defendants had no policies, protocols and procedures for patient assessment, care and treatment under the circumstances of this case.

63. Thus, the actions and nonactions of the defendants and Kaiser Permanente nurses were negligent.

64. Thus, the conduct of the defendants and Kaiser Permanente nurses fell below the applicable standards of care in Colorado.

65. The above-cited negligent acts and failures to act by the defendants and the Kaiser Permanente nurses were the direct, actual and proximate cause of plaintiff's harm and damages.

Courthouse News Service

66. As a direct and proximate result of the conduct described in this Complaint, plaintiff was not treated and cared for in a timely manner, and said delays therein caused her harm and damages.

67. As a direct and proximate result of the defendants' conduct and negligence as described herein, plaintiff has suffered or will suffer injuries, damages, and losses, including but not limited to the following: Past and future costs and expenses of medical or other health care, past and future loss of enjoyment and quality of life, past and future embarrassment and emotional distress, and past and future physical impairment.

68. Had plaintiff been properly diagnosed and cared for by the defendants, she would have grown taller and would be taller now and in the future, owing to earlier therapies. Moreover, her other health conditions and deficits related to Turner Syndrome would have been properly treated sooner and ameliorated or eliminated (including but not limited to her untimely sexual development and her attention deficit disorder and learning deficits).

69. Plaintiff was denied the value of a chance to receive proper and timely medical care and enjoy the results thereof, and to avoid her damages, as described in this Complaint.

Courthouse News Service

FIRST CLAIM FOR RELIEF
(Negligence in Respondeat Superior)

70. Plaintiff incorporates by reference the above paragraphs.

71. The acts and omissions of the Kaiser Permanente nurses as described herein were in law the acts and omissions of Defendants Wood, Kaiser Permanente Medical Group, and Kaiser Permanente Insurance Company.

72. The Kaiser Permanente nurses were negligent, which negligence constituted the negligence of Defendants Wood, Kaiser Permanente Medical Group, and Kaiser Permanente Insurance Company pursuant to a theory of respondeat superior.

SECOND CLAIM FOR RELIEF
(Negligence – Medical Malpractice)

72. Plaintiff incorporates by reference the above paragraphs.

73. Defendants acted negligently and committed medical malpractice in plaintiff's care and treatment, or lack of treatment, as described herein.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

WHEREFORE, Plaintiff prays for judgment in her favor and against the defendants in amounts to be determined by the triers of fact, including interest as provided by law from the date the claims arose, costs, attorney's fees, witness fees, expert witness fees, and such other and further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED,

s/ John R. Olsen
John R. Olsen, Reg. No. 9475
Diane MacArthur Brown, Reg. No. 16700
The Olsen Firm
8362 Greenwood Drive
Niwot, CO 80503
(303) 652-1133
olsenbrown@comcast.net
Attorneys for Plaintiff

Date: July 30, 2013

Plaintiff's Address:
1880 S. Arbutus St.
Lakewood, CO 80228

Courthouse News Service