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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

HOLLY GRAY, As Administrator
of the Estate of ROBERT GRAY,
Deceased
8420 Sunnydale Drive
Brecksville, Ohio 44141

Plaintiff,

vs.

MARYMOUNT HOSPITAL, INC.
c/o CT Corporation System,
Statutory Agent
1300 East Ninth Street, Ste. 1010
Cleveland, Ohio 44114

and

THE CLEVELAND CLINIC
FOUNDATION
c/o CT Corporation System,
Statutory Agent
1300 East Ninth Street, Ste. 1010
Cleveland, Ohio 44114

and

VIJAYKANT R. PATEL, M.D.
c/o Emergency Care Specialists, Inc.
12300 McCracken Road
Garfield Heights, Ohio 44125

and

EMERGENCY CARE
SPECIALISTS, INC.
c/o Thayne R. Alred, M.D.,
Statutory Agent
1785 Forest Drive

CASE NUMBER:

JUDGE:

Complaint
JOSE' A VILLANUEVA
CV 13 814556

COMPLAINT

(Jury Demand Endorsed Hereon)

Medina, Ohio 44256

and

KAISER PERMANENTE

**c/o Kaiser Foundation Health Plan
of Ohio, Statutory Agent
1001 Lakeside Avenue, Ste. 1200
Cleveland, Ohio 44114**

and

KAISER PERMANENTE OHIO

**c/o Kaiser Foundation Health Plan
of Ohio, Statutory Agent
1001 Lakeside Avenue, Ste. 1200
Cleveland, Ohio 44114**

and

CATHOLIC HEALTH PARTNERS

**c/o Michael A. Bezney,
Statutory Agent
615 Elsinore Place
Cincinnati, Ohio 45202**

and

AARON R. SMITH, M.D.

**c/o Kaiser Permanente
Cleveland Heights Medical Center
10 Severance Circle
Cleveland Heights, Ohio 44118**

and

MAAN FARES, M.D.

**c/o Kaiser Permanente
Parma Medical Center
12301 Snow Road
Parma, Ohio 44130**

and)

**OHIO PERMANENTE MEDICAL)
GROUP, INC.)**

**c/o ACFB Incorporated)
200 Public Square, Ste. 2300)
Cleveland, Ohio 44114)**

and)

**JOHN DOE and/or JOHN DOE,)
INC., I-V.)
(Identities and addresses unknown))**

Defendants.)

Now comes Plaintiff, Holly Gray ("Plaintiff"), As Administrator of the Estate of Robert Gray, Deceased ("Decedent"), by and through her undersigned counsel, and for her Complaint against Defendants, Marymount Hospital, Inc. ("Defendant Marymount"), The Cleveland Clinic Foundation ("Defendant CCF"), Vijaykant R. Patel ("Defendant Patel"), Emergency Care Specialists, Inc. ("Defendant ECS"), Kaiser Permanente and Kaiser Permanente Ohio ("Defendants Kaiser"), Catholic Health Partners ("Defendant CHP"), Aaron R. Smith, M.D. ("Defendant Smith"), Maan Fares, M.D. ("Defendant Fares"), Ohio Permanente Medical Group, Inc. ("Defendant OPMG"), and John Doe and/or John Doe, Inc., I-V ("Defendant(s") Doe"), states as follows:

FACTUAL ALLEGATIONS

1. Plaintiff is the duly appointed Administrator of Decedent's Estate, and brings this claim on behalf of the Estate and on behalf of Decedent's next of kin pursuant to Ohio Revised Code Sections 2125.01 and 2125.02.

2. Plaintiff states that she was appointed as Administrator of Decedent's Estate by the Probate Court of Cuyahoga County, Ohio on October 24, 2011 in case number 2011 EST 0173005. (A copy of the Entry Appointing Fiduciary; Letters of Authority is attached hereto as "Exhibit A.")

3. Upon information and belief, Defendant Marymount is and/or was, at all times relevant herein, an Ohio corporation, partnership or other business entity licensed to and/or doing business under the law of the state of Ohio and/or deriving substantial income from medical services performed in Cuyahoga County, Ohio. Defendant Marymount is responsible for the acts and/or omissions of its employees and agents pursuant to the doctrine of *Respondeat Superior*.

4. Upon information and belief, Defendant CCF is and/or was, at all times relevant herein, an Ohio corporation, partnership or other business entity licensed to and/or doing business under the law of the state of Ohio and/or deriving substantial income from services performed in Cuyahoga County, Ohio which is believed to maintain a management, ownership, and/or partnership interest in Defendants Marymount and Kaiser.

5. Upon information and belief, Defendants Patel, Smith, and Fares are and/or were, at all times relevant herein, duly licensed doctors of medicine in the State of Ohio

practicing medicine in Cuyahoga County, Ohio.

6. Upon information and belief, Defendant ECS is and/or was, at all times relevant herein, an Ohio corporation, partnership or other business entity licensed to and/or doing business under the law of the state of Ohio and/or deriving substantial income from medical services performed in Cuyahoga County, Ohio. Upon information and belief, Defendant ECS, at all times relevant herein, did employ Defendant Patel and is responsible for the acts and/or omissions of its employees and agents pursuant to the doctrine of *Respondeat Superior*.

7. Upon information and belief, Defendant OPMG is and/or was, at all times relevant herein, an Ohio corporation, partnership or other business entity licensed to and/or doing business under the law of the state of Ohio and/or deriving substantial income from medical services performed in Cuyahoga County, Ohio. Upon information and belief, Defendant OPMG, at all times relevant herein, did employ Defendants Smith and Fares and is responsible for the acts and/or omissions of its employees and agents pursuant to the doctrine of *Respondeat Superior*.

8. Upon information and belief, Defendants Kaiser are and/or were, at all times relevant herein, Ohio corporations, partnerships or other business entities licensed to and/or doing business under the law of the state of Ohio and/or deriving substantial income from medical services performed in Cuyahoga County, Ohio. Defendants Kaiser are responsible for the acts and/or omissions of their employees and agents pursuant to the doctrine of *Respondeat Superior*.

9. Upon information and belief, Defendant CHP is and/or was, at all times relevant herein, an Ohio corporation, partnership or other business entity licensed to and/or doing business under the law of the state of Ohio and/or deriving substantial income from services performed in Cuyahoga County, Ohio which is believed to maintain a management and/or ownership interest in Defendant Kaiser.

10. Upon information and belief, Defendant(s) Doe are and/or were, at all times relevant herein, individuals, groups, partnerships and/or other entities which: (1) may have been involved in Decedent's treatment and/or care; (2) are involved in insuring any of the parties herein, and/or; (3) are otherwise proper parties to this lawsuit. The identities of Defendant(s) Doe remain unknown despite Plaintiff's due diligence.

11. Plaintiff states that, at approximately 4:30 p.m. on September 30, 2011, Decedent (then age 36) was admitted into the Emergency Department at Defendant Marymount with complaints of chest pain. Decedent's health history was significant for prior treatment for atherosclerosis and stenosis and a strong family history of premature coronary artery disease.

12. Plaintiff states that an electrocardiogram performed upon Decedent's admission to Defendant Marymount revealed "normal sinus rhythm, rate about 69 and also [that] the patient had a marked ST depression in lead V3 to V6." Defendant Patel, Defendant Marymount's admitting physician, telephonically consulted with a physician at Defendant CCF's STEMI Division who recommended that Decedent be transferred via Life Flight to Defendant CCF for treatment and care.

13. Plaintiff states that, upon dispatching the Life Flight, Defendant CCF realized that, because Decedent is a regular patient of Defendants Kaiser, Defendants Kaiser needed to authorize the transfer.

14. Plaintiff states that when Defendant CCF's transfer center contacted Defendants Kaiser, Defendants Kaiser's emergency room physician, Defendant Smith, and cardiologist, Defendant Fares, determined that Decedent's condition did not merit critical care transport. Defendants Kaiser instructed Defendant CCF to cancel the Life Flight which was already en route. At Defendants Kaiser's direction, Defendant CCF cancelled the Life Flight (which was just about to land at Defendant Marymount at the time of its recall).

15. Plaintiff states that Defendants Kaiser advised Defendant CCF that it had dispatched private critical care ground transportation company, American Medical Response ("AMR"), to facilitate Decedent's transfer from Defendant Marymount to Defendant CCF. AMR is only "Advanced Cardiac Life Support" certified, and as such, does not have the necessary equipment to provide mobile intensive care.

16. Plaintiff states that Defendant Patel ordered that Decedent undergo a repeat EKG before authorizing his transfer via ground transport. Thereafter, Defendant Patel authorized the transport via AMR.

17. Plaintiff states that, while Decedent was being prepared for transfer, his heart rate dropped, thereby necessitating additional medical intervention by Defendants Marymount and/or Patel. Defendant Marymount requested that Defendant CCF re-

launch its Life Flight; however, due to deteriorating weather conditions, the Life Flight was no longer available.

18. Plaintiff states that Decedent went into full cardiac arrest during ground transport via AMR. As AMR was without sufficient training to provide appropriate medical care and/or had inadequate or defective equipment, the paramedics/emergency medical technicians called the Cuyahoga Heights Police Department for assistance. A Cuyahoga Heights Fire Department ambulance was dispatched, and upon arrival, found Decedent to be in full arrest on a stretcher in the back of Defendant's ambulance. CPR was performed, and Decedent was shocked 2-3 times and received 2-3 doses of EPI and one dose of Lidocaine with no success.

19. Plaintiff states that the transport was diverted to MetroHealth Medical Center, where Decedent was pronounced dead on September 30, 2011.

COUNT ONE

20. Plaintiff incorporates all of the facts, statements and allegations contained in Paragraphs 1 through 19 as if fully rewritten herein.

21. Plaintiff states that Defendants were negligent in their treatment and care of Decedent, and that their conduct did fall below the standard of care applicable for physicians and medical institutions in this area.

22. Plaintiff states that as a direct and proximate result of Defendants' negligence, Decedent died on September 30, 2011.

23. Plaintiff states that as a direct and proximate result of Defendants'

negligence, Decedent's next of kin was caused to suffer a loss of the services, society, companionship, care, assistance, and attention of Decedent.

24. Plaintiff states that as a further direct and proximate result of Defendants' negligence, Decedent's next of kin was caused to suffer great mental anguish.

25. Plaintiff states that as a further direct and proximate result of Defendants' negligence, Decedent's next of kin was caused to incur medical, burial and funeral expenses.

WHEREFORE, Plaintiff, Holly Gray, As Administrator of the Estate of Robert Gray, demands judgment against Defendants, Marymount Hospital, Inc., The Cleveland Clinic Foundation, Vijaykant R. Patel, Emergency Care Specialists, Inc., Kaiser Permanente, Kaiser Permanente Ohio, Catholic Health Partners, Aaron R. Smith, M.D., Maan Fares, M.D., Ohio Permanente Medical Group, Inc., and John Doe and/or John Doe, Inc., I-V, jointly, severally, and/or proportionately, on Count One in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), in addition to interest and court costs as will fully and fairly compensate the family and next of kin of Robert Gray.

THE BRUNN LAW FIRM CO., L.P.A.

Thomas L. Brunn, Jr. (#0042453)
Alison D. Ramsey (#0078121)
COUNSEL FOR PLAINTIFF
208 Hoyt Block
700 West St. Clair Avenue
Cleveland, Ohio 44113-1230
Tel: (216) 623-7300/Fax: (216) 623-7330
E-mail: brunn@core.com