

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

MONDA LAMBERT
9304 Lancelot Road
Fort Washington, Maryland 20744

Plaintiff

vs.

KAISER FOUNDATION HEALTH PLAN OF THE
MID-ATLANTIC STATES, INC.
2101 East Jefferson Street
Rockville, MD 20852

Serve: The Prentice-Hall Corporation System,
Maryland
7 St. Paul Street
Suite 1660
Baltimore, MD 21202

and

MID-ATLANTIC PERMANENTE MEDICAL
GROUP, P.C.
2101 East Jefferson Street
Rockville, MD 20852

Serve: The Prentice-Hall Corporation System,
Maryland
11 East Chase Street
Baltimore, MD 21202

Defendants

Case No. CAL13-30135

Clerk of the
Circuit Court
PR GEO CO MD #73
2013 OCT -7 PM 3:41
Case: CAL13-30135
NEW CASE
APP FEE PLAIN 10.00
CV CLERK FEE- 60.00
MD LEGAL SERV 35.00
TOTAL 105.00
Rec'd PG15 Rec'd # 38379
RMB OCT BIK # 484
Oct 09, 2013 01:06 PM

COMPLAINT

1. Plaintiff Monda Lambert makes claim against defendants Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.C. for medical injury within the meaning of Md. Code Cts. & Jud. Proc. §3-2A-01 (2002). Plaintiff has elected to waive arbitration

12

pursuant to Md. Code Cts. & Jud. Proc. §3-2A-06B(B). The Election of Waiver and supporting Certificate of Qualified Expert and Report are attached as Exhibits A-B. The amount in controversy exceeds the concurrent jurisdictional limit of the District Court of Maryland. Venue is proper in Prince George's County, Maryland.

PARTIES

2. Plaintiff Monda Lambert, born July 26, 1955, is a citizen of the State of Maryland and a resident of Prince George's County. Plaintiff Monda Lambert is employed by Homeland Security. Her Civil Service rating is Grade 14, Step 10.

3. Defendant Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. (hereinafter "Kaiser") is a Maryland corporation with its principal place of business at 2101 East Jefferson Street, Rockville, Maryland 20852. Kaiser employs physicians and other health care providers, and provides medical and related services at a variety of locations, including a Largo, Maryland office at 1221 Mercantile Lane, Largo, Maryland 20774. Kaiser is a health care provider within the meaning of Title 3, Subtitle 2A of the Courts and Judicial Proceedings Article, Ann. Code of Md.

4. Defendant Mid-Atlantic Permanente Medical Group, P.C. is a Maryland corporation engaged in the business of providing medical services to members of the Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., and is operated and controlled by Kaiser. Mid-Atlantic Permanente Medical Group, P.C. is a health care provider within the meaning of Title 3, Subtitle 2A of the Courts and Judicial Proceedings Article, Ann. Code of Md. Hereinafter Kaiser

and Mid-Atlantic Permanente Medical Group, P.C. are referred to as "the Kaiser Defendants."

5. All of the care and treatment provided to plaintiff Monda Lambert at Kaiser facilities was provided by physicians and others who were employed by the Kaiser Defendants and were acting within the scope of their employment. Specifically, physician Leslie A. Nurse, M.D. at all times pertinent to the allegations herein was an actual and apparent agent and employee of the Kaiser Defendants, acting within the scope of her employment.

STATEMENT OF FACTS

6. Plaintiff Monda Lambert had been a patient at Kaiser since June 21, 2000. She had a history of asthma, chronic sinusitis, and nasal polyps. She had undergone sinus surgery on July 14, 2010 and on March 3, 2011 in which Dr. Nurse participated.

7. Plaintiff Monda Lambert consulted Dr. Nurse, an otolaryngologist at Kaiser Permanente's Largo office, on May 6, 2011 for evaluation of chronic sinusitis and persistent congestion. Ms. Lambert, then age 55, had recently finished a cycle of Prednisone medication. She was still having problems with persistent congestion, pain, and drainage.

8. Dr. Nurse undertook to treat Ms. Lambert with a series of nasal steroid injections in which Dr. Nurse injected the nasal and sinus lining with Kenalog 40.

9. Ms. Lambert underwent nasal steroid injections performed by Dr. Nurse at the Kaiser Permanente Largo office on May 6, 2011, May 27, 2011, June 20, 2011, and July 22, 2011.

10. During the July 22, 2011 procedure, Dr. Nurse negligently and without using due care made an intra-arterial injection in which she injected the steroid into the ophthalmic artery under pressure, causing retrograde flow of the steroid into the ophthalmic system and then anterograde flow to the right eye resulting in arterial occlusion and blindness.

Count I – Medical Negligence

11. Plaintiff Monda Lambert incorporates by reference the allegations set forth in paragraphs 1-10 above.

12. The Kaiser Defendants were under a duty to plaintiff Monda Lambert to exercise that degree of care and skill in the treatment of Monda Lambert as was ordinarily exercised by other health care providers acting in the same or similar circumstances.

13. In violation of the duty owed to plaintiff Monda Lambert, the Kaiser Defendants, acting through their actual and apparent agents and employees, failed to exercise that degree of care and skill which was required under the circumstances. The departures from applicable standards of care by the Kaiser Defendants included but were not limited to the following:

- a. failure to exercise due care in the evaluation, diagnosis, and treatment of Monda Lambert;
- b. failure to use reasonable care in assessing whether Monda Lambert was a proper candidate for nasal steroid injections, given the higher risk of inadvertent intra-arterial injection presented by the removal of soft tissue in her prior sinus surgeries leaving limited soft tissue in which to inject;
- c. performing repeated nasal steroid injections on Monda Lambert given the risk of blindness associated with inadvertent intra-arterial

injection, the other available conservative forms of treatment not presenting this risk, and the limited benefits of this treatment;

- d. using excessive doses of steroid in administering the repeated nasal steroid injections;
- e. failure to take appropriate precautions in administering the injections to avoid inadvertent intra-arterial injection;
- f. performing the fourth nasal steroid injection which was not indicated and was unwarranted given the patient's clinical condition;
- g. failure, when faced with visual loss, to follow well-established emergency protocols and guidelines to attempt to reverse the effects of the intra-arterial injection, thereby losing any opportunity to restore vision; and
- h. otherwise deviating from accepted standards of care.

14. As a result of these deviations from accepted standards of care, plaintiff Monda Lambert suffered injury to her right eye, including blindness.

15. As a further result of these deviations from the standard of care, plaintiff Monda Lambert incurred and will incur in the future medical and related expenses; has sustained a loss of earnings and impairment of her earning capacity; has been and will continue to be prevented from engaging in her usual and customary activities; has been caused to undergo and will undergo in the future physical and mental pain and suffering; and has endured and will continue to endure a diminution in her quality of life.

Wherefore, plaintiff Monda Lambert demands judgment against defendants Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.C., jointly and severally, in an amount that exceeds the jurisdictional limit of the District Court of Maryland.

COUNT II – Lack of Informed Consent

16. Monda Lambert incorporates by reference the allegations set forth in paragraphs 1-15 above.

17. The Kaiser Defendants, acting directly and/or through their actual and apparent agents and employees, negligently failed to obtain Monda Lambert's informed consent to performance of repeated nasal steroid injections. Such failure includes, but is not limited to, failing to disclose the foreseeable risks and complications of repeated nasal steroid injections, failing to disclose the alternative conservative treatment modalities available, failing to disclose the risk of injury by injecting the steroid into the ophthalmic artery under pressure, failing to disclose the risk of causing retrograde flow of the steroid into the ophthalmic system, failing to disclose the risk of anterograde flow to the right eye, and failing to disclose the risk of arterial occlusion and blindness.

18. As a result of the Kaiser Defendants' negligent breach of the duty to obtain informed consent, plaintiff Monda Lambert has suffered severe and permanent injuries as set forth above.

19. As a further result of the Kaiser Defendants' negligent breach of the duty to obtain informed consent, plaintiff has required and will require extensive medical and related care and treatment, has incurred and will incur substantial medical and related expenses, has suffered and will suffer a loss of earnings and an impairment of her earning capacity, and has been and will be disabled from multiple occupations and pursuits.

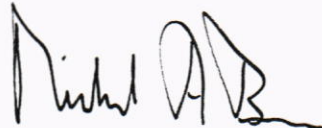
Wherefore, plaintiff Monda Lambert demands judgment against defendants Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Mid-Atlantic Permanente Medical Group, P.C., jointly and severally, in an amount that exceeds the jurisdictional limit of the District Court of Maryland.



Gerard E. Mitchell
Richard A. Bussey
STEIN, MITCHELL, MUSE & CIPOLLONE LLP
1100 Connecticut Avenue, N.W.
Suite 1100
Washington, DC 20036
(202) 737-7777
(202) 296-8312 (facsimile)
Counsel for Plaintiff

JURY PRAYER

Plaintiff demands trial by jury on all issues.



Richard A. Bussey