

DISTRICT COURT, DENVER COUNTY COLORADO Court Address: 1437 Bannock Street Room 256 Denver, Colorado 80223	DATE FILED: November 4, 2013 12:34 PM FILING ID: CFF63C1DF76C9 CASE NUMBER: 2013CV34813 ▲ COURT USE ONLY ▲
PLAINTIFFS: VERMELL E. HILL, individually as surviving spouse of CHARLENA RACHAEL HILL, Deceased v. DEFENDANTS: PAUL HAUTAMAA, M.D., LINDA J. JABLONSKI, R.N. and KAISER FOUNDATION HEALTH PLAN OF COLORADO	Case Number: Division:
GERASH STEINER, P.C. Eric L. Steiner #34114 Daniel P. Gerash #18071 1775 Sherman Street #1650 Denver, Colorado 80203 Telephone: (303) 830-0630 Fax: NOT DESIGNATED	
COMPLAINT AND JURY DEMAND	

PLAINTIFF Vermell E. Hill, individually and as surviving spouse of Charlena R. Hill, by and through his attorneys, respectfully submit this Complaint and Jury Demand against Defendants Paul Hautamaa, M.D., Linda R. Jablonski, R.N. and Kaiser Foundation Health Plan of Colorado. For his Complaint, Plaintiff states and alleges as follows:

CERTIFICATE OF REVIEW

Undersigned counsel hereby certifies that he has reviewed the facts of this case and has consulted with at least one professional who has expertise in the areas of the conduct alleged in the Complaint and Jury Demand, who has reviewed the known facts, including such records, documents and other material which the professional(s) has found to be relevant to the allegations of the negligent conduct, and, based on a review of such facts, has concluded that the filing of the claim does not lack substantial justification within the meaning of C.R.S. §13-17-102(4). Also, the person(s) consulted meets the requirements of C.R.S. §13-64-401, and can demonstrate by competent evidence that, as a result of training, education, knowledge and experience, he or she is competent to express an opinion as to the negligent conduct alleged.

I. PARTIES & JURISDICTION

1. Plaintiff Vermell E. Hill and Charlena R. Hill were husband and wife and at all pertinent times, were residents of the City and County of Denver and State of Colorado, engaged in civilian affairs.

2. Charlena R. Hill ("Decedent") died on March 29, 2012 in Denver, Colorado. Plaintiff Vermell E. Hill brings this action as Charlena Hill's surviving spouse pursuant to C.R.S. §13-21-203 et seq.

3. At all times relevant, Defendant Paul Hautama M.D. was a medical doctor licensed in the State of Colorado, holding License No. DR 0032747.

4. At all times relevant, Defendant Linda J. Jablonski, R.N. was a registered nurse licensed in the State of Colorado, holding License No. RN 0100835. At all times relevant, her employer was Defendant Kaiser Foundation Health Plan of Colorado.

5. At all times relevant, Defendant Kaiser Foundation Health Plan of Colorado ("Defendant Kaiser") was a Colorado corporation engaged in civilian affairs of providing healthcare coverage services within the City and County of Denver.

6. At all times relevant, Defendant Jablonski was acting as an employee or agent of Defendant Kaiser Foundation Health Plan of Colorado.

7. This Court possesses subject matter jurisdiction to adjudicate the claims alleged herein under the provisions of Article VI, Section 9 of the Colorado Constitution.

8 Venue is proper pursuant to C.R.C.P. 98(c) because pursuant to Colorado Rule of Civil Procedure 98 because the tortious conduct as alleged in the Complaint and Jury Demand herein occurred in Denver County, State of Colorado.

9. With this Complaint, Plaintiff submits his election forms to exclude this case from the Simplified Procedure under C.R.C.P. 16.1. Damages in excess of the maximum allowable pursuant to Rule 16.1 are being sought by Plaintiff.

II. GENERAL ALLEGATIONS

10 Plaintiff hereby incorporates all of the allegations and averments contained in paragraphs 1 – 9 above as though fully restated herein.

11. Decedent was a member of Kaiser Foundation Health Plan of Colorado since March of 2010, through her employer the State of Colorado.

12. At all times relevant herein a physician-patient relationship existed between Defendant Hautamaa and Decedent such that this Defendant owed the Decedent a duty to provide medical care and treatment within the standard of care and skill ordinarily possessed by reasonably careful physician practicing in the same specialty under similar circumstances.

13. At all times relevant herein a nurse-patient relationship existed between Defendant Jablonski and Decedent such that this Defendant owed the Decedent a duty to provide nursing care and treatment within the standard of care and skill ordinarily possessed by reasonably careful registered nurse practicing in the same specialty under similar circumstances.

14. Upon information and belief, Decedent began consulting with Defendant Kaiser's medical group at its Smoky Hill Clinic in January of 2012 with complaints of knee pain. The Decedent's course of treatment consisted of evaluation for a left knee sprain and suspect posterior ligament injury and an MRI which revealed a large chondral defect. Decedent was referred to the Kaiser orthopedic clinic, which included Defendant Hautamaa and Defendant Jablonski for followup.

15. On February 2, 2012, Decedent consulted with Defendant Hautamaa regarding her knee injuries. Defendant Hautamaa recommended a diagnostic arthroscopy and possible repair of the left knee defect.

16. On March 5, 2012, Defendant Hautamaa performed a knee arthroscopy with microfracture of LFC lesion at the Kaiser Ambulatory Surgery Center located at the Kaiser Franklin Medical Office.

17. On March 7 and March 15, 2012, Decedent complained to Defendant Hautamaa of post-surgical issues which included swelling and pain.

18. On March 20, 2012, Decedent met with Defendant Hautamaa for evaluation of her right knee. At this visit, Decedent complained of mild numbness of left great toe. Defendant Hautamaa remarked that the “numbness may be from swelling of knee or from lower back” and “will monitor”.

19. The medical records indicate that on March 28, 2012 at approximately 1429, Decedent complained to the Kaiser clinic via email as follows: “I am experiencing a lot of swelling since my return to work. Should my leg be elevated while at work. Any suggestion on how high it should be elevated, etc. would be greatly appreciated.” The record further suggests that at approximately 1503, Defendant Jablonski called Decedent back. The medical record is silent as to what was discussed in this return phone call or message.

20. The next day, March 28, 2012, Mrs. Hill called her husband late in the afternoon and complained of being fatigued and short of breath. Mr. Hill picked up the decedent at work and took her home. Within moments of arriving at home the decedent became unconscious. Mr. Hill called 9-1-1, the ambulance arrived in a matter of minutes and by 1753 the Decedent was in the emergency room at Denver Health & Hospital. Despite best medical efforts, the medical team at Denver Health & Hospital was unable to revive Charlena Hill and she was pronounced dead at 1859 on March 29, 2013.

21. The Denver Medical Examiner determined that the cause of Charlena Hill’s death was pulmonary emboli.

III. FIRST CLAIM FOR RELIEF
(Medical Negligence - Defendant Hautamaa)

22. Plaintiff hereby incorporates all of the allegations and averments contained in paragraphs 1 - 21 above as though fully restated herein.

21. At all times relevant to this Complaint, Decedent Charlena Hill was under the care and treatment of Defendant Hautamaa.

22. With respect to his care and treatment of Charlena Hill, Defendant Hautamaa had a duty to exercise that degree of care, skill, caution, diligence and foresight exercised and expected of physicians and surgeons trained in the same or similar situations as presented herein.

23. With respect to his care and treatment of Charlena Hill, Defendant Hautamaa is held to the same standard of care applicable to any other physician and surgeon.

24. At all times pertinent Defendant Hautamaa had specific and individual duties to perform medical services within the accepted standard of care. Defendant Hautamaa breached his duty of care in one or more of the following particulars:

- a. Failed to adequately and correctly request and/or perform a medical evaluation of Charlena Hill when she developed swelling and pain in her knee following her March 5, 2012 surgery;
- b. Defendant Hautamaa was otherwise negligent and careless in providing medical care to Charlena Hill, causing her death;
- c. Defendant Hautamma failed to adequately supervise and coordinate care that would be provided by Defendant Jablonski for Charlena Hill in the postoperative period.

25. One or more of, but not limited to, the above negligent acts of the Defendant Hautamaa caused or contributed to Charlena Hills' death.

26. As a direct and proximate result of Defendant Hautamaa's negligence, Plaintiff's wife tragically died at the age of 27. Plaintiff has incurred non-economic losses, including, but not limited to, grief, loss of companionship and solace, and impairment of the quality of life, and other damages to be determined.

27. As a direct and proximate result of Defendant Hautamaa's negligence, Plaintiff has incurred economic losses, including, but not limited to, net pecuniary or financial loss, and other damages to be determined.

28. As a further direct and proximate result of the negligence of the Defendant Hautamaa, Plaintiff has incurred funeral bills and other special damages, in an amount concerning which the Plaintiffs seek leave to submit an itemization prior to trial.

III. FIRST CLAIM FOR RELIEF **(Negligence - Defendant Jablonski)**

29. Plaintiff hereby incorporates all of the allegations and averments contained in paragraphs 1 - 28 above as though fully restated herein.

30. At all times material hereto, Decedent was a patient of, and under the nursing/medical care and management of, Defendant Jablonski.

31. At all times material hereto, Defendant Jablonski owed a duty to Decedent to exercise that degree of skill, care, caution, diligence, and foresight exercised by and expected of reasonable nursing/medical personnel practicing in the same or similar field of practice.

32. Defendant Jablonski deviated from that nursing/medical standard of care, and thus was negligent, including, but not limited to, the following acts or failures to act:

- a. Negligently failing to provide proper nursing/medical care and treatment to Decedent Charlena Hill; and
- b. Providing nursing/medical care and treatment to Decedent Charlena Hill that fell below the applicable standard of care for nurses/medical personnel practicing in the same or similar field of practice for a postoperative patient such as Charlena Hill.

33. As a direct and proximate result of Defendant Jablonski's negligence, Plaintiff's wife tragically died at the age of 27, Plaintiff has incurred non-economic losses, including, but not limited to, grief, loss of companionship and solace, and impairment of the quality of life, and other damages to be determined.

34. As a direct and proximate result of Defendant Jablonski's negligence, Plaintiff has incurred economic losses, including, but not limited to, net pecuniary or financial loss, and other damages to be determined.

35. As a further direct and proximate result of the negligence of the Defendant Jablonski, Plaintiff has incurred funeral bills and other special damages, in an amount concerning which the Plaintiffs seek leave to submit an itemization prior to trial.

III. THIRD CLAIM FOR RELIEF

(Defendant Kaiser Foundation Health Plan of Colorado - *Respondeat Superior*)

36. Plaintiff hereby incorporates all of the allegations and averments contained in paragraphs 1 - 35 above as though fully restated herein.

37. Upon information and belief, Defendant Kaiser was the employer of nurses, aides, nurse practitioners, and other personnel who provided treatment to Decedent at all times relevant to this Complaint and are liable for their actions and omissions under the doctrine of *respondeat superior*.

38. Defendant Kaiser, its employees, and agents owed a duty of reasonable professional care to patients, including Decedent.

39. Defendant Kaiser, its employees, or agents breached the above described duty in one or more of, but not limited to, the following ways:

- a. Failure to obtain prompt and appropriate nursing/medical consultation and intervention for Decedent; and

- b. Failure to provide nursing/medical personnel with appropriate skills, training and experience in the management of post-surgical patients such as Decedent.
- c. Failure to have in place policies and procedures, guidelines or other similar documents for the care and treatment of known complications for patient such as Charlena Hill in the postoperative period.

40. As a direct and proximate result of the acts and omissions of Defendant Kaiser, Plaintiff suffered and will continue to suffer injuries, damages and losses including, but not limited to, net pecuniary or financial loss, and other damages to be determined.

41. As a further direct and proximate result of the negligence of the Defendant Kaiser, Plaintiff has incurred funeral bills and other special damages, in an amount concerning which the Plaintiffs seek leave to submit an itemization prior to trial.

Plaintiff prays that this Court enter judgment in his favor and against the Defendants for all claims for relief set forth above and for the award of compensatory and other damages for economic losses including medical bills, lost earnings and earning capacity, non-economic losses; pre-judgment interest; post-judgment interest; court costs, including but not limited to expert witness fees; and any other relief this Court finds just and appropriate under the circumstances.

Plaintiffs hereby demand a trial to a jury of six as to all claims and defenses so triable.

Respectfully submitted this 4th day of November, 2013.

Gerash Steiner, P.C.

A duly executed original is on file at the offices of Gerash Steiner, P.C. pursuant to C.R.C.P. 121(c) § 1-26

By/s/ Eric L. Steiner

Eric L. Steiner # 34114

Daniel P. Gerash # 18071

ATTORNEYS FOR PLAINTIFF

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