

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

IRENE M. MCGLONE, Individually)
and as Personal Representative of)
The Estate of Wayne C. McGlone, Deceased,)
4024 Bunker Court)
Mount Airy, MD 21771)

and)

GABRIELLA MCGLONE)
4024 Bunker Court)
Mount Airy, MD 21771)

and)

EILEEN HILL)
1132 Maple Road)
Baltimore, MD 21221)

Plaintiffs,)

v.)
CAROL P. CARDINALE, M.D.)
c/o Kaiser Permanente)
655 Watkins Mill Road)
Gaithersburg, MD 20879)

and)

KAISER FOUNDATION HEALTH)
PLAN, INC.)
One Kaiser Plaza, 19th Floor)
Oakland, CA 94612)
Serve:)
CSC-Lawyers Incorporating Service Co.)
Registered Agent)
7 St. Paul Street, Suite 1660)
Baltimore, MD 21202)

and)

KAISER FOUNDATION HOSPITALS)
One Kaiser Plaza, 19th Floor)
Oakland, CA 94612)

Civil Action No. _____
JURY TRIAL DEMANDED

Court: 004520
NEW CASE
CV CLERK FEE- 00.00
NO LEGAL SERV 00.00
TOTAL 100.00
Real: 100.00 Rec: 4 100.00
LIT. 00.00 BIL 4 100.00
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Serve:)
CSC-Lawyers Incorporating Service Co.)
Registered Agent)
7 St. Paul Street, Suite 1660)
Baltimore, MD 21202)
and)
DANIEL L. GRIFFEN, III, M.D.)
c/o Cardiac Associates, P.C.)
15225 Shady Grove Road, Suite 201)
Rockville, MD 20850)
and)
CARDIAC ASSOCIATES, P.C.)
15225 Shady Grove Road, Suite 201)
Rockville, MD 20850)
Serve:)
Gregorio Koss, M.D.)
Registered Agent)
13-15 East Deer Park Drive)
Gaithersburg, MD 20878)
and)
ADVENTIST HEALTHCARE, INC., D/B/A)
SHADY GROVE ADVENTIST HOSPITAL)
9901 Medical Center Drive)
Rockville, MD 20850)
Serve:)
Kenneth B. DeStefano, Esq.)
800 West Diamond Avenue, Suite 600)
Gaithersburg, MD 20878)
Defendants.)

COMPLAINT

(Medical Malpractice/Wrongful Death/Loss Of Consortium)

1. Jurisdiction is invoked pursuant to Ms. Cts. & Jud. Proc. §§3-2A-01 et. seq.

Plaintiffs have elected to waive arbitration in favor of Circuit Court proceedings. See Certificate

of Merit and Expert Report, *attached* as Exhibit 1; Waiver of Arbitration, *attached* as Exhibit 2; and Order of Transfer, *attached* as Exhibit 3.

2. Plaintiff Irene McGlone (“Mrs. McGlone”) is an adult resident of Maryland. Mrs. McGlone is the widow of Wayne C. McGlone who died at 53 years old. Together, they have one minor child.

3. Plaintiff Gabriella McGlone is a minor resident of Maryland. Gabriella McGlone is Wayne McGlone’s only child.

4. Plaintiff Eileen Hill is an adult resident of Maryland. Ms. Hill is Wayne McGlone’s mother, and his only surviving parent.

5. At all times of which Plaintiffs complain, the Defendants, themselves and through their agents, servants and employees, represented to Mr. McGlone and to the general public that they possessed the degree of knowledge, ability and skill possessed by reasonably competent medical practitioners, practicing under the same or similar circumstances as those involving care to Mr. McGlone.

6. At all times mentioned herein, the medical care and treatment provided to Mr. McGlone by Kaiser Foundation Health Plan, Inc.; Kaiser Foundation Hospitals; Cardiac Associates, P.C.; and Adventist Healthcare, Inc. was provided by the agents, employees, servants and representatives of these Defendants.

7. At all times mentioned herein, defendant Carol Cardinale, M.D., while acting within the scope of her employment, provided medical care and treatment to Mr. McGlone.

8. At all times mentioned herein, defendant Daniel Griffen, III, M.D., while acting within the scope of his employment, provided medical care and treatment to Mr. McGlone.

9. A health care provider/patient relationship existed between all of the Defendants, their agents, employees, representatives, and/or servants named in this claim, and Mr. McGlone at all times relevant herein. The Defendants owed Mr. McGlone a duty to conform their care to the standards of reasonably prudent practitioners acting under the same or similar circumstances.

10. Mr. McGlone was a Kaiser-Permanente patient.

11. At all relevant times, Kaiser Permanente and Dr. Cardinale were aware that Mr. McGlone had a family history of cardiac and artery diseases. Kaiser Permanente and Dr. Cardinale were further aware that Mr. McGlone took statins for hyperlipidemia.

12. In December 2011, Mr. McGlone called Kaiser Permanente complaining of chest pain and shortness of breath.

13. Mr. McGlone subsequently called 911 and was taken to Frederick Memorial Hospital.

14. A CT angiogram of the chest was recommended, but because Frederick Memorial Hospital is not a Kaiser-Permanente-approved facility, it was never performed.

15. Kaiser Permanente ordered that Mr. McGlone be transferred to Shady Grove Adventist Hospital (“Shady Grove Hospital”), a Kaiser-Permanente-approved facility.

16. Mr. McGlone was transferred to Shady Grove Hospital on December 17, 2011.

17. At Shady Grove Hospital, an exercise stress test/nuclear stress test was performed.

18. Dr. Griffen interpreted the testing. During the testing, Mr. McGlone did not reach a sufficient heart rate for the test to be diagnostic. Thus, Dr. Griffen interpreted the testing as non-diagnostic.

19. Dr. Griffen did not order that the test be repeated. Dr. Griffen did not order that a CT angiogram, as recommended at Frederick Memorial Hospital, or any other study be performed.

20. On December 18, 2011, Mr. McGlone was discharged from Shady Grove Hospital with a diagnosis of atrial fibrillation and hyperlipidemia.

21. Following his discharge, Mr. McGlone was evaluated by Dr. Cardinale on January 13, 2012. She ordered that an echocardiogram be performed. However, despite being aware of Mr. McGlone's symptomology, his recent hospitalizations for chest pain and shortness of breath, his non-diagnostic stress test, that a CT angiogram had been recommended but not performed, and his family history of cardiac and artery disease, Dr. Cardinale ordered no further work-up and no further testing.

22. Concerned with Dr. Cardinale's decision not to perform further testing to determine the source of his chest pain and shortness of breath, Mr. McGlone requested on January 31, 2012, that Kaiser Permanente authorize him to obtain a second cardiology opinion from a Kaiser-Permanente partner.

23. On February 2, 2012, John Lucas, M.D., Mr. McGlone's Kaiser Permanente primary care provider ("PCP"), suggested that Mr. McGlone contact a different Kaiser-Permanente department if he wanted a referral.

24. On February 7, 2012, Mr. McGlone's brother, Joseph McGlone, 54, died of a myocardial infarction.

25. On February 14, 2012, Mr. McGlone informed Kaiser Permanente and Dr. Cardinale that his brother had suddenly died of myocardial infarction and again requested that Kaiser Permanente authorize him to obtain a second opinion.

26. On February 21, 2012, a Kaiser Permanente employee informed Mr. McGlone's wife that although Dr. Cardinale was aware that Mr. McGlone's brother had just died of the very problem Mr. McGlone was concerned about and for which there was a known family history, she required that Mr. McGlone's care be "internalized." Thus, Kaiser Permanente and Dr. Cardinale would not authorize Mr. McGlone to see a Kaiser-Permanente partner for further testing.

27. On February 23, 2012, Dr. Cardinale informed Mr. McGlone that his heart condition was an "electrical one," and that his was a different condition than that which took the life of Mr. McGlone's brother.

28. When she made that statement, Dr. Cardinale had not evaluated Mr. McGlone since learning of his brother's sudden death, had not performed testing on Mr. McGlone other than an echocardiogram, and had no medical records for Mr. McGlone's deceased brother.

29. When Mr. McGlone again requested that Kaiser Permanente provide him with a referral for a second opinion and testing, Dr. Cardinale suggested that he see her again.

30. Mr. McGlone saw Dr. Cardinale on March 26, 2012. During that visit, Dr. Cardinale noted that Mr. McGlone was still suffering from intermittent chest pressure and indigestion, the same symptoms that caused his December 2011 hospitalizations. This time, Dr. Cardinale ordered that a nuclear stress test be scheduled for a future date.

31. On April 3, 2012, before the nuclear stress test was conducted, Wayne McGlone died of an acute myocardial infarction.

32. An autopsy revealed that Mr. McGlone suffered from severe coronary artery disease.

33. The autopsy further revealed that Mr. McGlone suffered a complete occlusion by thromboembolus of his left anterior descending artery.

34. Had the Defendants treated Mr. McGlone within the applicable standard of care, Mr. McGlone would not have suffered injury and died.

COUNT I
(Medical Malpractice- Wrongful Death)

35. Plaintiffs hereby incorporate by reference all paragraphs above.

36. The Defendants, by themselves and/or through their respective agents, employees, representatives, servants and/or apparent agents, departed from the standard of care with respect to Mr. McGlone, by failing:

- a. to order appropriate testing;
- b. to fully and appropriately report the results of testing;
- c. to appropriately evaluate Mr. McGlone's condition;
- d. to diagnose and cure Mr. McGlone's condition;
- e. to timely order and perform a nuclear stress test;
- f. to timely order and perform an angiogram, catheterization or other test;
- g. to timely order testing based on Mr. McGlone's family history; and
- h. were otherwise negligent.

37. As a direct and proximate result of the above-described negligence of the Defendants, Mr. McGlone suffered injury and died.

38. Absent the above-described negligence of the Defendants, Mr. McGlone would have lived a normal, healthy and fulfilling life.

39. As a direct and proximate result of the Defendants' above-described negligence, Mr. McGlone's next of kin and beneficiaries have suffered, and will continue to suffer sorrow, mental anguish, loss of society, companionship, comfort, guidance, kindly offices and advice,

and reasonably expected loss of income and services, protection, care and assistance provided by Mr. McGlone, and any other damages recoverable under Maryland law.

40. As a direct and proximate result of the Defendants' negligence, Mrs. McGlone, as Personal Representative for the Estate, has incurred expenses relating to the death and funeral of Wayne C. McGlone.

WHEREFORE, Plaintiffs demand judgment against the Defendants, jointly and severally, in an amount in excess of the jurisdictional limit and for all other relief deemed just and proper.

COUNT II
(Negligence)

41. Plaintiffs hereby incorporate by reference all previous paragraphs.

42. As a direct result of the above-described negligence of the Defendants, Mr. McGlone suffered injuries and died.

43. Absent the above-described negligence of the Defendants, Mr. McGlone would have lived a normal, healthy and fulfilling life.

44. As a direct and proximate result of the Defendants' above-described negligence, Mr. McGlone's next of kin and beneficiaries have suffered, and will continue to suffer sorrow, mental anguish, loss of society, companionship, comfort, guidance, kindly offices and advice, and reasonably expected loss of income and services, protection, care and assistance provided by Mr. McGlone, and any other damages recoverable under Maryland law.

45. As a direct and proximate result of the Defendants' negligence, Mrs. McGlone, as Personal Representative for the Estate, has incurred expenses relating to the death and funeral of Wayne C. McGlone.

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COUNT III
(Loss of Consortium)

46. Plaintiffs hereby incorporate by reference all paragraphs above.

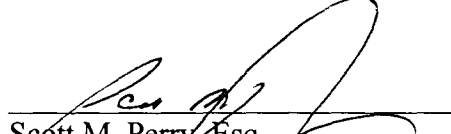
47. At the time of Mr. McGlone's death, he was lawfully married to Irene McGlone.

48. As a direct and proximate result of the Defendants' negligence, Irene McGlone has suffered a loss of consortium that she could have reasonably expected to receive from Mr. McGlone.

WHEREFORE, Mrs. McGlone demands judgment against the Defendants, jointly and severally, in an amount in excess of the jurisdictional limit and for all other relief deemed just and proper.

Respectfully submitted,

PERRY CHARNOFF PLLC

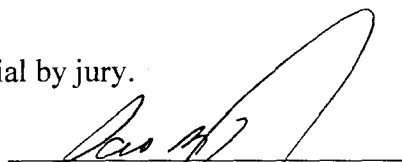


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Counsel for Plaintiff

Plaintiffs demand a trial by jury.



Scott M. Perry