DATE FILED: March 4, 2014 4:00 PM
FILING ID: A0E6366EA296D
CASE NUMBER: 2014CV30941

DISTRICT COURT, COUNTY OF DENVER COLORADO 1437 Bannock Street, Denver, CO	
Plaintiff: STEVEN HENNI, **Defendants:** ERIK YOUNGBLOOD, M.D., IAN PARSONS, M.D., MICHELLE COLONNA, KAISER FOUNDATION HEALTH PLAN OF COLORADO, and COLORADO PERMANENTE MEDICAL GROUP, P.C.	**▲COURT USE ONLY ▲**
Attorneys for Plaintiff: Peter A. McClenahan, #41044 Henry Miniter, #37412 Leventhal, Brown & Puga, P.C. 950 S. Cherry Street, Suite 600 Denver, Colorado 80246 Phone Number: (303) 759-9945	Case Number: Division:

COMPLAINT, JURY DEMAND AND CERTIFICATE OF REVIEW

Courthouse News Service

Plaintiff Steven Henni, through his counsel, Leventhal, Brown & Puga, P.C., submits the following Complaint:

I. Certificate of Review

Pursuant to C.R.S. § 13-20-602(3)(a), counsel certify as follows:

a. Counsel have consulted with licensed professionals with expertise in the areas of the alleged negligent conduct as set forth in Plaintiff's Complaint; and,

b. The licensed professionals who have been consulted have reviewed all known facts relevant to the allegations of negligent conduct as complained of in Plaintiff's Complaint; and,

c. Based upon such facts, these licensed professionals have concluded that the filing of the claims against Defendants does not lack substantial justification within the meaning of C.R.S. § 13-17-102(4); and,

d. The licensed professionals who have reviewed all known facts relevant to the allegations of negligent conduct by the physician Defendants, as contained in Plaintiff's Complaint, meet the requirements set forth in C.R.S. § 13-64-401.

II. Parties

1. Mr. Steven Henni is 59 years old.

3. Prior to sustaining the injuries described herein, Mr. Henni worked as an operations agent for W.J. Bradly Mortgage Capital, LLC.

4. At all relevant times, Defendant Eric Youngblood, M.D. was a physician licensed to practice medicine in the State of Colorado, board certified in family medicine, and holding himself out as a primary care physician.

5. At all relevant times, Defendant Ian Parsons, M.D. was a physician licensed to practice medicine in the State of Colorado, board certified in family medicine, and holding himself out as a primary care physician.

6. At all relevant times, Defendant Kaiser Foundation Health Plan of Colorado ("KFHP") was a Colorado corporation doing business in Denver County, Colorado. At all relevant times, Defendant Michelle Colonna was a nurse's aide licensed in the State of Colorado acting within the scope of her employment as an employee of KFHP.

7. At all relevant times, Defendant Colorado Permanente Medical Group, P.C. ("CPMG") was a Colorado professional corporation formed for the purpose of practicing medicine.

8. This Court has personal and subject matter jurisdiction over this action pursuant to C.R.S. § 13-1-124(1)(a), (b), and (c).

9. Venue is proper in the City and County of Denver pursuant to Rule 98(c).

III. General Allegations regarding KFHP

10. KFHP administers the Kaiser Permanente Medical Care Program, pursuant to which enrolled members receive comprehensive, integrated medical care arranged for by KFHP and provided by KFHP employees or affiliated health care providers.

11. KFHP operates medical offices in Colorado at which its members receive primary medical care, specialty care, urgent care, radiology, laboratory and pharmacy services.

12. KFHP contracts with CPMG, an integrated group medical practice of physicians in primary care and specialty fields, to provide exclusive medical care to its members.

Courthouse News Service

13. KFHP's medical offices are staffed by allied health providers such as nurses, physician's assistants, nurse practitioners, therapists, nurse's aides, medical assistants, and pharmacists, all of whom are employed by KFHP.

14. By virtue of the integrated health services it provides, KFHP has the ability to ensure that its employees and affiliated physicians follow evidence-based guidelines in order to ensure the health of KFHP members.

15. KFHP maintains an integrated electronic medical record system which enables its health care providers, both its own employees and its affiliated CPMG physicians, to access the entirety of a patient/member's electronic medical history.

16. At all relevant times, Mr. Henni was a member of KFHP, and received his medical care from the Defendants.

17. KFHP members, such as Mr. Henni, do not have the ability to access the entirety of their medical record electronically.

18. KFHP employees and affiliated physicians create the electronic record at the time they provide care.

19. KFHP employees and affiliated physicians have instantaneous access to a member's electronic medical record ("EMR").

20. Through a variety of tabs and links, providers can quickly access any part of a patient's EMR.

21. When KFHP employees and affiliated physicians attend to a patient, they should acquire the entire medical record in order to effectively evaluate and treat the patient.

22. Each time Mr. Henni consulted with a KFHP employee or affiliated physician, each such provider had instantaneous access to Mr. Henni's entire electronic medical record.

23. The EMR of the Defendants' patients, including Mr. Henni, is an integrated electronic medical record that is reviewed and used by all of the KFHP medical providers to provide a continuum of care.

IV. Allegations regarding Mr. Henni's course of treatment

24. On or about June 9, 2012, Mr. Henni was involved in a two car automobile accident. Mr. Henni, who was wearing a seat belt, forcefully collided with another automobile resulting in significant physical trauma to Mr. Henni's head and neck.

Courthouse News Service

25. On or about June 18, 2012, Mr. Henni's wife contacted KFHP and spoke with Allison Latorre, R.N. Ms. Latorre was advised that Mr. Henni had been in a car accident about one week earlier and had developed numbness in his left arm and had lost the majority of his grip in his left hand.

26. Ms. Latorre was advised by Mr. Henni's wife that Mr. Henni was now unable to complete simple motor tasks and was unable to put his wallet into his own back pocket.

27. On July 3, 2012, Mr. Henni presented to his primary care physician at KFHP, Erik Youngblood, M.D., for his symptoms.

28. Dr. Youngblood noted that Mr. Henni had no prior history of any neck problems prior to the car crash, that he had hypertension, that his neck hurt a couple days after the car crash, that he developed left arm weakness, numbness and tingling, and that he was now having difficulty with simple motor tasks such as typing.

29. Dr. Youngblood diagnosed Mr. Henni with "whiplash" and ordered no testing.

30. By July 10, 2012, Mr. Henni's symptoms had not abated. Accordingly, Mr. Henni called KFHP and spoke with Allison Latorre, R.N. by telephone. Ms. Latorre reassured Mr. Henni that he only had "whiplash" and no testing was ordered.

31. By July 23, 2012, Mr. Henni's condition was continuing to deteriorate. By this time, Mr. Henni's left hand and fingers were numb "most of the time." Accordingly, Mr. Henni called KFHP and requested that he be given "radiology tests." Mr. Henni was informed by KFHP employee Sherea Holt that that he was only permited to have an x-ray and only if he was first seen by a doctor.

32. Accordingly, that same day, July 23, 2012, Mr. Henni went to KFHP where he was seen by Ian Parsons, M.D. By this time, as noted above, Mr. Henni's left hand was numb most of the time and he was experiencing weakness and difficulty with movement. Dr. Parsons permitted Mr. Henni to obtain an x-ray of the cervical spine.

33. On July 25, 2012, Mr. Henni obtained an x-ray of the cervical spine.

34. The July 25, 2012 x-ray was interpreted by CPMG radiologist Alison Sandberg, M.D. Dr. Sandberg's report stated: "Minimal anterolisthesis of C4 on C5 with the superior end plate L4 appearing to be mildly rotated. However, if there is a history of prior trauma, consider CT follow up or repeat views with more neutral lateral positioning."

35. Mr. Henni was not provided with a copy of Dr. Sandberg's report.

36. On July 27, 2012, KFHP employee Michelle Colonna, a nurse's aide, spoke with Mr. Henni on the telephone regarding the results of the x-ray. Ms. Colonna told Mr. Henni that

Courthouse News Service

the x-ray showed arthritis. Mr. Henni was not told by Ms. Colonna, or anyone else, that the radiologist had instructed that a CT follow up should be considered if Mr. Henni had a history of prior trauma. If Mr. Henni had been given this information, he would have obtained a CT because Mr. Henni did have a recent history of prior trauma.

37. Due, in part, to Ms. Colonna's failure to properly, accurately and adequately communicate to Mr. Henni the results, findings and recommendations of the radiologist's report on the x-ray, Mr. Henni did not undergo a follow-up CT scan.

38. By August 2, 2012, Mr. Henni's condition had not improved and a cervical MRI was ordered.

39. On August 6, 2012, Mr. Henni underwent an MRI of the cervical spine. The MRI was interpreted by CPMG radiologist Sophia Symko, M.D.

40. On August 10, 2012, Mr. Henni emailed Dr. Youngblood and reported that his left hand was worse and that he could not open it.

41. In an email from Dr. Youngblood to Mr. Henni on August 10, 2012, Dr. Youngblood wrote to Mr. Henni "I beg your patience while we try to figure out where this is coming from in the neck."

42. On August 13, 2012, Mr. Henni emailed Dr. Youngblood and asked, "Is the MRI complete?"

43. On August 13, 2012, Dr. Youngblood emailed Mr. Henni about the cervical MRI and advised him that "It was reported today and it looks good from my perspective."

44. On August 13, 2012, Mr. Henni sent an email to Youngblood advising him: "My hand recently started to swell. There is basically no improvement since I saw you five weeks ago. If I sleep on my left side, my hand reacts badly even to the point of freezing in a fist. I need some help. You mentioned a shot, can we move forward with that. I would also think that physical therapy is an option. It is difficult to do simple tasks like buttoning my pants or my shirt. Typing is impossible and is an integral part of my job. I could go on and on how this injury has made my life more difficult. I need help."

45. On August 14, 2012, 7:34 a.m., Dr. Youngblood emailed Mr. Henni and referred him to physical therapy and neurosurgery.

46. On August 14, 2012, 3:31 p.m., Mr. Henni emailed Dr. Youngblood, stating, "I just want to heal. What would you recommend?"

47. On August 14, 2012, 4:14 p.m., Dr. Youngblood emailed Mr. Henni advising him that he had put in a prescription for an anti-inflammatory and a muscle relaxant. Further, Dr.

Courthouse News Service

Youngblood stated that while he could not refer Mr. Henni to acupuncture, chiropractic or massage it would be "fine" for Mr. Henni to pursue that treatment.

48. On August 19, 2012, Mr. Henni suffered a series of massive brain damaging strokes.

49. On August 19, 2012, Mr. Henni presented to the emergency room of St. Joseph's Hospital, and reported that he had increasing left arm numbness and left leg numbness since his recent "whiplash" injury. The physical examination by the ER physician showed profound weakness in the left arm and mild deficits in the left leg. The ER physician opined that this made cervical radiculopathy less likely and a central process more likely.

50. On August 19, 2012, a CT scan was ordered by physicians at St. Joseph's, revealing right parietal and right frontal lobe lesions. An MRI performed the same day showed infarcts in the right anterior, middle watershed territory, right temporal, occipital, MCA territory and left frontal convexity with both acute and subacute areas.

51. As a result of the strokes, Mr. Henni sustained severe permanent brain damage.

FIRST CLAIM FOR RELIEF
(Medical Negligence – Eric Youngblood, M.D.)

52. Plaintiff incorporates by reference paragraphs 1 through 51 as if fully set forth herein.

53. Plaintiff Steven Henni was under the care and treatment of Defendant Eric Youngblood, M.D. in 2011 and 2012.

54. With respect to his care and treatment of Plaintiff, Defendant Dr. Youngblood owed Plaintiff a duty to exercise that degree of care, skill, caution, diligence, and foresight exercised and expected of physicians in similar situations.

55. Defendant Dr. Youngblood deviated from the standard of care required and was negligent in his care and treatment of Plaintiff including, but not limited to, the following:

a. Failing to properly treat, evaluate, diagnose, monitor, and follow the care and treatment of Steven Henni;

b. Failing to properly, timely and adequately diagnose and treat Steven Henni's medical condition;

c. Failing to timely and properly refer Steven Henni to appropriate medical providers so they could timely, adequately, and properly diagnose Steven Henni's medical condition;

Courthouse News Service

d. Failing to consult with appropriate medical providers concerning Steven Henni's condition;

e. Failing to timely and adequately evaluate Steven Henni and order appropriate testing to timely diagnose and treat his medical condition;

f. Failing to timely coordinate and facilitate Steven Henni's consultation with neurology and other specialists to obtain a timely diagnosis of his impending stroke;

g. Failing to timely and appropriately evaluate Steven Henni's medical condition and complaints;

h. Failing to timely and appropriately obtain and evaluate Steven Henni's medical history, family history and risk factors for stroke;

i. Failing to conduct an adequate examination and relying on email and telephone communications instead of actually seeing and examining Mr. Henni;

j. Failing to properly document and chart Steven Henni's medical conditions, including but not limited to, the history and description, as well as his failure to improve;

k. Failing to follow Steven Henni after his stroke to ensure that he was timely assessed and treated for his injuries and failing to coordinate and facilitate his treatment.

56. As a direct and proximate result of Defendant Dr. Youngblood's negligence, Plaintiff has suffered injuries, damages and losses, including, but not limited to, delay in diagnosis of stroke; failure to timely diagnose, treat and refer him to specialists which resulted in the occurrence of a massive brain damaging stroke; past, present and future economic losses, including lost wages and additional medical expenses and life care expenses, past, present and future non-economic losses, including pain and suffering, inconvenience, emotional distress, and impairment of quality of life; loss or reduction of his chance of cure, increased chance of recurrence of stroke, decreased chance of survival, physical impairment; additional health and medical treatment and associated detrimental side effects occasioned by the delay in his diagnosis and institution of treatment; fear, worry and anxiety caused by the delay in diagnosis of his stroke, fear of increased risk of recurrence of stroke and potential reduced chance of survival; loss of trust in health care providers due to the betrayal of trust by the Defendants.

Courthouse News Service

SECOND CLAIM FOR RELIEF
(Medical Negligence – Ian Parsons, M.D.)

57. Plaintiff incorporates by reference paragraphs 1 through 56 as if fully set forth herein.

58. Plaintiff was under the care and treatment of Defendant Ian Parsons, M.D. in 2012.

59. With respect to his care and treatment of Plaintiff, Defendant Dr. Parsons owed Plaintiff a duty to exercise that degree of care, skill, caution, diligence, and foresight exercised and expected of physicians in similar situations.

60. Defendant Dr. Parsons deviated from the standard of care required and was negligent in his care and treatment of Plaintiff including, but not limited to, the following:

a. Failing to properly treat, evaluate, diagnose, monitor, and follow the care and treatment of Steven Henni;

b. Failing to properly, timely and adequately diagnose and treat Steven Henni's medical condition;

c. Failing to timely and properly refer Steven Henni to appropriate medical providers so they could timely, adequately, and properly diagnose Steven Henni's medical condition;

d. Failing to consult with appropriate medical providers concerning Steven Henni's condition;

e. Failing to timely and adequately evaluate Steven Henni and order appropriate testing to timely diagnose and treat his medical condition;

f. Failing to timely coordinate and facilitate Steven Henni's consultation with neurology and other specialists to obtain a timely diagnosis of his impending stroke;

g. Failing to timely and appropriately evaluate Steven Henni's medical condition and complaints;

h. Failing to timely and appropriately obtain and evaluate Steven Henni's medical history, family history and risk factors for stroke;

i. Failing to conduct an adequate examination;

Courthouse News Service

j. Failing to properly document and chart Steven Henni's medical conditions, including but not limited to, the history and description, as well as his failure to improve;

k. Failing to follow Steven Henni after his stroke to ensure that he was timely assessed and treated for his injuries and failing to coordinate and facilitate his treatment.

61. As a direct and proximate result of Defendant Dr. Parson's negligence, Plaintiff has suffered injuries, damages and losses, including, but not limited to, delay in diagnosis of stroke; failure to timely diagnose, treat and refer him to specialists which resulted in the occurrence of a massive brain-damaging stroke; past, present and future economic losses, including lost wages and additional medical expenses and life care expenses, past, present and future non-economic losses, including pain and suffering, inconvenience, emotional distress, and impairment of quality of life; loss or reduction of his chance of cure, increased chance of recurrence of stroke, decreased chance of survival, physical impairment; additional health and medical treatment and associated detrimental side effects occasioned by the delay in his diagnosis and institution of treatment; fear, worry and anxiety caused by the delay in diagnosis of his stroke, fear of increased risk of recurrence of stroke and potential reduced chance of survival; loss of trust in health care providers due to the betrayal of trust by the Defendants.

THIRD CLAIM FOR RELIEF
(Negligence- Michelle Colonna; Respondeat Superior and Negligence – Kaiser Foundation Health Plan of Colorado)

62. Plaintiff incorporates Paragraphs 1 through 61 herein by reference.

63. At all relevant times, Michelle Colonna was employed by Defendant KFHP and acting within the scope of her employment.

64. On July 27, 2012, as described above, Ms. Colonna spoke with Mr. Henni via telephone at or around 9:54 a.m. for the purpose of communicating to Mr. Henni the findings, results and recommendations of Mr. Henni's July 23, 2012 x-ray of his cervical spine.

65. With respect to Mr. Henni, Ms. Colonna owed Plaintiff a duty to exercise that degree of care, skill, caution, diligence, and foresight exercised and expected of nurse's aides in similar situations.

66. Ms. Colonna deviated from the standard of care required and was negligent with respect to Mr. Henni by failing to properly, correctly, accurately and adequately inform Mr. Henni about the findings, results and recommendations of the July 23, 2012 x-ray of his cervical spine.

Courthouse News Service

67. Ms. Colonna deviated from the standard of care required and was negligent with respect to Mr. Henni by failing to inform Mr. Henni that the radiologist who had interpreted his July 23, 2012 x-ray of his cervical spine had instructed that a CT follow up or repeat views should be considered if Mr. Henni had a history of prior trauma.

68. As Mr. Henni did have a history of prior trauma, if Ms. Colonna had properly informed Mr. Henni about the findings, results and recommendations of the radiologist, Mr. Henni would have obtained a CT follow up. As a result of the failures of Ms. Colonna and others, Mr. Henni did not undergo a CT follow up and this contributed to the delay in the diagnosis of Mr. Henni's impending stroke.

69. Defendant KFHP is responsible for the negligence of its employees, including Michelle Colonna.

70. All Defendant KFHP employees owed Mr. Henni a duty to provide care, properly communicate test results, make referrals and go up the chain of command as appropriate to ensure that he received timely and appropriate care, testing and referrals.

71. Defendant KFHP is responsible for the negligent acts and omissions of its employees, who failed to ensure that Mr. Henni was timely and appropriately evaluated, followed, diagnosed and referred for treatment and care of his impending stroke.

72. Defendant KFHP, acting through its agents and employees, who were acting within the course and scope of their employment or within their authority as agents, was negligent in its care and treatment of Plaintiff, resulting in the injuries, damages and losses more fully described above.

73. Defendant KFHP has undertaken the responsibility of ensuring coordinated, integrated care for its members through, among other things, the accurate and adequate communication of health care conditions and information and test results by telephone and email.

74. Defendant KFHP failed to ensure that its employees and affiliated physicians conformed with the above, thus providing negligent care to its members, including Mr. Henni.

75. Defendant KFHP failed to have in place adequate policies and procedures, regulations and safeguards to ensure that its method of utilizing telephone and email communications to provide healthcare to its members was reasonably safe and effective.

76. Defendant KFHP urges and encourages its members to utilize telephone and email communication with their health care providers as opposed to in-person physical visits to health care providers. The purpose of this policy is to save money and increase corporate profit. However, this policy decreases patient safety.

Courthouse News Service

77. Defendant KFHP urges and encourages its affiliated CPMG physicians to utilize telephone and email communication with their health care providers as opposed to in-person physical visits to health care providers. The purpose of this policy is to save money and increase corporate profit. However, this policy decreases patient safety.

78. At all relevant times, Defendant KFHP created policies and procedures to be used in evaluating and treating patients who are experiencing circulatory issues and stroke symptoms.

79. Defendant KFHP owed a duty of care to the patients whose evaluation and treatment were affected by its policies and procedures.

80. Defendant KFHP deviated from its duty of care by, among other things, failing to have appropriate policies and procedures in place for adequate follow-up and evaluation on patients with circulatory issues and stroke symptoms.

81. As a direct and proximate result of the actions and inactions of Defendant KFHP, acting through its agents and employees, as well as its direct negligence, Plaintiff has suffered injuries and damages more fully described above.

SEVENTH CLAIM FOR RELIEF
(Negligence – Colorado Permanente Medical Group, P.C.)

82. Plaintiff incorporates by reference paragraphs 1 through 81 as if fully set forth herein.

83. Defendant CPMG has undertaken the responsibility of ensuring coordinated, integrated care for KFHP members through, among other things, the use of the KFHP EMR and evidence-based guidelines.

84. Mr. Henni was a third-party beneficiary of the obligations Defendant CPMG owes Defendant KFHP to provide medical services to Defendant KFHP members.

85. Defendant CPMG employed physicians have a duty to use the Defendant KFHP's EMR to review all of the patient's relevant prior health care at each visit in order to properly assess and care for each patient, to ensure a continuum of care and to ensure that timely referrals, follow-ups and treatment are provided to each patient.

86. Defendant CPMG breached its duties and responsibilities by failing to institute policies and procedures and training to ensure that its physicians actually utilize the EMR in the manner in which it is intended, and by failing to ensure that its physicians know how to properly use the EMR in order to provide appropriate care and treatment to Defendant KFHP members, including Mr. Henni.

Courthouse News Service

87. As a direct and proximate result of Defendant CPMG's negligence, Defendant CPMG physicians failed to properly and appropriately review and appreciate Mr. Henni's history of physical trauma which had occurred in a motor vehicle accident.

88. Defendant CPMG provides care for Defendant KFHP patients, and develops and refines medical practices for the delivery of medical care to Defendant KFHP members.

89. Defendant CPMG owed a duty to its patients to make decisions based on the patient's best interests, and not the financial interests of the Defendant CPMG physicians.

90. At all relevant times, Defendant CPMG created policies and procedures to be used in evaluating and treating patients who are experiencing circulatory issues and stroke symptoms.

91. Defendant CPMG owed a duty of care to the patients whose evaluation and treatment were affected by its policies and procedures.

92. Defendant CPMG deviated from its duty of care by, among other things, failing to have appropriate policies and procedures in place for adequate follow-up and evaluation on patients with circulatory issues and stroke symptoms.

93. Defendant CPMG urges and encourages its physicians to utilize telephone and email communication with their patients as opposed to in-person physical visits to health care providers. The purpose of this policy is to save money and increase corporate profit. However, this policy decreases patient safety.

94. As a direct and proximate result of the actions and inactions of Defendant CPMG, acting through its agents and employees, as well as its direct negligence, Plaintiff has suffered injuries and damages more fully described above.

WHEREFORE, Plaintiff Steven Henni prays for compensatory damages and special damages in favor of the plaintiff and against the defendants in an amount to be determined by the trier-of-fact, pre-judgment, pre-filing and post-judgment interest as allowed by law, witness and expert fees, filing fees, deposition expenses, attorneys' fees, and for such other and further relief as this Court may deem appropriate and just, including all costs.

PLAINTIFF REQUESTS A TRIAL BY JURY.

PLAINTIFF REQUESTS DEPOSITIONS OF THE DEFENDANTS AND THEIR EMPLOYEES AND AGENTS AT THE EARLIEST PRACTICABLE TIME.

Courthouse News Service

Respectfully submitted this 4th day of March, 2014.

LEVENTHAL, BROWN & PUGA, P.C.
A duly signed original is available at the offices of Leventhal, Brown & Puga, P.C. signed by Peter A. McClenahan

By _____
Peter A. McClenahan, #41044
Henry Miniter, #37412
Attorneys for Plaintiff

Address of Plaintiff
Steven Henni
218 East 4th Street
Julesburg, CO 80737

Courthouse News Service