

IN THE CIRCUIT COURT FOR PRINCE GEORGES COUNTY, MARYLAND

LARRY BROOKS
2833 Waters Edge Court
Bryans Road, MD 20616

Plaintiff,

v.

CAL No. 14-05566

MID-ATLANTIC PERMANENTE
MEDICAL GROUP, P.C.
2101 E. Jefferson Street
Rockville, MD 20850
Serve:

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

and

KAISER FOUNDATION HEALTH PLAN
OF THE MID-ATLANTIC STATES, INC.
2101 E. Jefferson Street
Rockville, MD 20850
Serve:

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

Defendants.

COMPLAINT

1. The venue for this claim is proper in Prince Georges County, Maryland.
2. Defendants Mid-Atlantic Permanente Medical Group P.C. (hereinafter "Permanente") and Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. (hereinafter "Kaiser") are corporations that do substantial business in the State of Maryland and in particular in Prince George's County. They provide physicians,

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nurses and other health care providers at various medical facilities owned and/or managed by Kaiser.

3. At all times relevant herein, Larry Brooks was a member in good standing of Kaiser and/or of defendants Permanente and Kaiser.

4. At all times relevant herein, the Permanente and Kaiser physicians, nurses and other health care providers Mr. Brooks saw as a Kaiser member were agents and/or employees of Permanente and/or Kaiser, acting within the scope of their agency and/or employment in rendering medical diagnoses, care and treatment to Mr. Brooks. By virtue of the doctrine of respondeat superior, Permanente and Kaiser are responsible for any violations of applicable medical standards of care on the part of their physicians, nurses and other health care providers.

5. In January 2008 Mr. Brooks was in a motorcycle accident that resulted in a T4 spinal cord injury.

6. In 2010 Mr. Brooks was being followed by physicians, nurses and other health care providers of Permanente and Kaiser. A physical therapist noted on June 17, 2010 that he:

continues to present with bilateral hip and knee flexion contractures which limits patient's ability to roll from supine <> prone and transfer in and out of his car in less than 2 minutes.

7. On June 23, 2010 Mr. Brooks saw Reginald Wallen, M.D., a Kaiser Permanente physician, at the Kaiser Camp Springs Center. He complained of a "sore in the L groin area" which had "been present for two weeks." Dr. Wallen described the area as: "L groin with several millimeter deep wound. Small amount of

serosanguinous drainage. No gross pus." He diagnosed the area as a decubitus ulcer. He gave Mr. Brooks a general surgery referral and applied a wet to dry dressing.

8. In accordance with this general surgery referral, on June 24, 2010 Mr. Brooks saw Melissa Strauss, PA at the Kaiser Largo - General Surgery Center. He told her that the open ulcer started "as a line that 'gaped open'." Ms. Strauss' examination revealed:

left groin with large 5.5 x 1.5 x 1 cm open wound with 1 cm undermining from 6 - 12 o'clock position. Mixed 80% pink moist granulation tissue, 20% yellow slough, with slight malodor. No bony exposure. No paronoid Celluloids.

Ms. Strauss, whose work was approved by Donna Pitman, M.D., a Kaiser Permanente physician, told Mr. Brooks that it was important to change the dressing and how often to do so, that he should clean the area with "acetic acid 0.25% sltn", that he should "apply dampened santyl wet to dry and add padding for support." Additionally, she told him to "avoid trauma to the site", to "followup in 2 weeks" and that if the wound did not progress, it might be necessary for him to see a plastic surgeon.

9. On July 8, 2010 Mr. Brooks saw Philip Iorianni, M.D., a Kaiser Permanente plastic surgeon, for a consult at the Kaiser Kensington Center. Dr. Iorianni described the wound as a "left upper medial thigh wound" with "nonviable tissues" at the base. He saw no celluloids, abscess or tracking and smelled no odor. He recommended debridement.

10. On July 13, 2010 Mr. Brooks saw Thomas R. Chang, M.D., a Kaiser Permanente plastic surgeon, at the Kaiser Physicians Office Center at Washington

Hospital Center. Dr. Chang also indicated that Mr. Brooks should have surgery and told Mr. Brooks to follow up with Dr. Iorianni.

11. On July 14, 2010 Mr. Brooks underwent a preoperative exam for the plastic surgery debridement of his deep groin ulcer. His Kaiser records show that the surgery was scheduled for July 27, 2010.

12. The debridement surgery did not take place on July 27, 2010. This is because Mr. Brooks developed a small bowel obstruction and after going to the Emergency Room at Doctors Community Hospital was admitted to Holy Cross Hospital ("HCH") from July 28, 2010 until August 5, 2010.

13. Over the course of his July 28, 2010 until August 5, 2010 admission at HCH, Mr. Brooks' small bowel obstruction resolved without the need for surgery. His health care providers in the employ/agency of Permanente and Kaiser were aware of his left groin wound. On 07/28/10, the ostomy nurse described the wound as measuring 6.4 x 4.4 x 1 cm and having 100 percent yellow slough in the wound bed and a foul odor. The primary care he received was local wound care and enzymatic debridement. On August 3, 2010 Dr. Iorianni and Dr. Cantor did a sharp debridement at the bedside.

14. On August 12, 2010 a week after his release from HCH, Mr. Brooks saw Dr. Iorianni. While he came for assessment of his left thigh wound, he stated that he had not felt well for the past couple of days. Dr. Iorianni asked for an Internal Medicine consult which resulted in Mr. Brooks, who had a fever 102 degrees, being sent to the Emergency Room at Suburban Hospital.

15. From late August 12, 2010 to August 14, 2010 Mr. Brooks was at Suburban Hospital. There his left groin wound was described as a Stage 3 to Stage 4 ulcer with no visible discharge. Dr. Joseph Michaels, a plastic surgeon, examined the wound and described it as follows:

In the left groin region he has a large open wound over the medial aspect with exposed adductor muscle and surrounding groin musculature. There is necrosis of the muscle area at the base. The wound extends all the way up to the pubic symphysis behind the scrotal region. There is no involvement of the scrotum. There is also tracking inferiorly, totaling approximately 4 to 5 cm. There is no surrounding celluloids. There is no appreciable fluid collections.

Dr. Michaels was of the opinion that the wound would benefit from debridement with subsequent VAC placement and then closure. The Emergency Room physician placed Mr. Brooks on broad-spectrum antibiotics, including Vancomycin and Zosyn. He noted that Mr. Brooks was malnourished.

16. Mr. Brooks was moved from Suburban Hospital on August 14, 2010 and taken to HCH where he remained until August 15, 2010. The following appears in the History & Physical:

HPI – 33 y/o male with paraplegia, abscess 2 years ago, presents with skin infection/abscess x 6 weeks. Treated conservatively and bandaged, no abx given. + chills recently. no fever. + worsening abscess - pain, swelling, tenderness. Also found to have UTI last month that was treated. ROS o/w neg.

17. Ira Y. Rabin, M.D., an internist, wrote a note in the aforementioned Suburban Hospital chart in which he diagnosed an abscess and recommended the following plan:

IV vanco
surg eval for I + D
ostomy eval
wound cx
Percocet PRN
F/u UA and cx.

18. Thereafter, Sigrid Bairdain, M.D., a surgeon, with the approval of Donna Pitman, M.D., decided that although she saw "some extension of the wound inferiorly", there were no signs or symptoms of abscess and that therefore, nothing more than local wound care and dressing changes was needed. Mr. Brooks was discharged with prescriptions for Doxycycline and Ciproflaxin based upon the results of a wound culture.

19. On August 19, 2010 Mr. Brooks saw Dr. Iorianni. His physical exam revealed "left inguinal/thigh wound-base of wound with nonviable tissues. Exposed muscle/tendon. No celluloids. Transverse 8 cm." He recommended debridement of the site to be followed by a wound VAC if it could be contoured to the region.

20. On August 19, 2010 Mr. Brooks underwent pre-op physical for surgery to be performed on August 23, 2010.

21. Mr. Brooks was admitted to HCH on August 23, 2010 and remained there until October 29, 2010. When he was admitted, his left groin wound was foul smelling with pus that extended into the thigh as well as the groin. He underwent multiple surgical procedures including debridement of left inguinal thigh wound

(08/24/10); debridement left thigh inguinal region & removal of pubic hardware (08/26/10); debridement of left inguinal, thigh and pubic wound (08/31/10); debridement left thigh and pubic area (09/09/10); debridement of left inguinal thigh wound (09/18/10); esophagogastroduodenoscopy with biopsies (09/21/10); and debridement of left thigh groin wound (10/26/10).

22. Defendants, acting through their employees and agents who treated Larry Brooks, as referenced herein, breached the applicable standards of care in failing to:

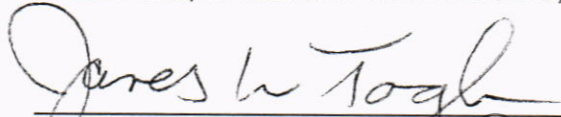
- appropriately diagnosis the skin lesion;
- appropriately examine and assess the nature and cause of the skin lesion;
- appropriately treat the skin lesion;
- assess the extent of the lesion;
- assess the extent of the infection in his right groin;
- meet his nutritional needs;
- offer a feeding tube;
- and were otherwise negligent.

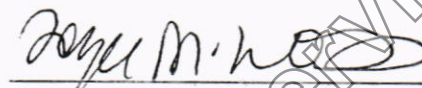
22. As a result of the aforesaid breaches, plaintiff, Larry Brooks, continued to have extensive problems related to this groin wound, was hospitalized multiple times and underwent multiple surgeries; has sustained and will sustain great pain of body and mind; and incurred and will incur medical and out of pocket costs.

WHEREFORE, the premises considered, plaintiff, Larry Brooks, demands judgment against defendants, Mid-Atlantic Permanente Medical Group, P.C. and

Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., jointly and severally, in an amount in excess of the jurisdictional limits of this Court.

CADEAUX, TAGLIERI & NOTARIUS, P.C.

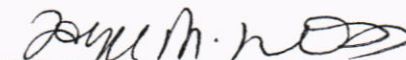

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CERTIFICATE


I hereby certify that I am a member in good standing of the Maryland Bar.

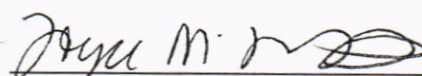

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JURY DEMAND

Plaintiff demands a trial by a jury as to all issues involved herein.


James W. Taglieri


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