

IN THE STATE COURT OF FULTON COUNTY

STATE OF GEORGIA

KEIMESHA WHITE AND RONDY
WHITE,

Plaintiffs,

v.

GWINNETT HOSPITAL SYSTEM, INC.
d/b/a GWINNETT MEDICAL CENTER,
KAREN GIARRUSSO, M.D., EUGENE
PIKUS, CRNA, KAISER FOUNDATION
HEALTH PLAN OF GEORGIA, INC. d/b/a
KAISER PERMANENTE AND SHIVANI
PATEL, CRNA,

Defendants.

CIVIL ACTION

FILE NO. _____

TRIAL BY TWELVE PERSON

JURY REQUESTED

COMPLAINT FOR DAMAGES

COME NOW, KEIMESHA WHITE and RONDY WHITE, Plaintiffs in the above-styled
action, and, file this, their Complaint for Damages, showing the Court as follows:

PARTIES AND JURISDICTION

1.

Keimesha and Rondy White are citizens of the state of Georgia.

2.

Keimesha and Rondy White are and were, at all times relevant to the subject matter of
this Complaint for Damages, husband and wife.

3.

Defendant Gwinnett Hospital System, Inc. (hereinafter "GHS") is a corporation which
exists under the laws of the state of Georgia. Defendant GMC has a principal place of business
located at 1000 Medical Center Boulevard, Lawrenceville, Georgia 30046. Defendant GHS is

subject to the jurisdiction of this Court and may be served with a copy of the Summons and Complaint through its registered agent for service of process, Peter B. Wheeler, who is located at 1000 Medical Center Boulevard, Suite 110, Lawrenceville, Georgia 30046.

4.

At all times relevant to the subject matter of this Complaint for Damages, Defendant GHS operated a hospital and did business as Gwinnett Medical Center (hereinafter "GMC").

5.

Defendant Karen A. Giarrusso, M.D. is currently a citizen of the state of Georgia who resides at 1170 Buena Vista Drive, Greensboro, Georgia 30642. Defendant Giarrusso is licensed to practice medicine in the state of Georgia as an anesthesiologist. Defendant Giarrusso is subject to the jurisdiction of this Court and may be served with a copy of the Summons and Complaint at her place of employment, 1000 Medical Center Boulevard, Lawrenceville, Georgia 30046 or her place of residence. At all times relevant to the subject matter of this Complaint for Damages, Defendant Giarrusso was a member of the anesthesia staff at Defendant GMC.

6.

Defendant Eugene Pikus is a resident of the state of Georgia. Defendant Pikus is a certified nurse anesthetist and is authorized to practice in the state of Georgia. Defendant Pikus is subject to the jurisdiction of this Court and may be served with a copy of the Summons and Complaint at his residence, located at 5000 Winding Rose Drive, Suwannee, Gwinnett County, Georgia 30024 or at his place of business, 1000 Medical Center Boulevard, Lawrenceville, Georgia 30046. At all times relevant to the subject matter of this Complaint for Damages, Defendant Pikus was employed by Defendant GMC as a Certified Registered Nurse Anesthetist.

7.

Defendant Kaiser Foundation Health Plan of Georgia, Inc. (hereinafter "Kaiser") is a corporation which exists under the laws of the state of Georgia. Defendant Kaiser is subject to the jurisdiction of this Court and may be served with a copy of the Summons and Complaint through its registered agent for service of process Corporation Service Company, which is located at 40 Technology Parkway South, Suite 300, Norcross, Georgia 30092. During all times relevant to the subject matter of this Complaint for Damages, Defendant Kaiser sold medical insurance, owned and operated a Health Maintenance Organization (HMO) known as Kaiser Permanente, which owned and operated medical facilities and employed physicians, nurses and other healthcare providers. Defendant Kaiser's principal place of business is Nine (9) Piedmont Center, 3495 Piedmont Road, N.E., Atlanta, Fulton County, Georgia 30305.

8.

Defendant Shivani Patel, CRNA, is a citizen of the state of Georgia. Defendant Patel is a Certified Registered Nurse Anesthetist who is authorized to practice in the state of Georgia. Defendant Patel is subject to the jurisdiction of this Court and may be served with a copy of the summons and Complaint at her residence, located at 222 Twelve Street, Unit 1205, Atlanta, Fulton County, Georgia 30309 or at her place of employment, 1133 Eagles Landing Parkway, Stockbridge, Henry County, Georgia 30281.

9.

Jurisdiction as to each of the Defendants is properly laid in this Court and the Court may exercise jurisdiction over the subject matter of this Complaint for Damages.

FACTUAL BACKGROUND

10.

During the times relevant to the subject matter of this Complaint for Damages, Defendant GHS operated a hospital located at 1000 Medical Center Boulevard, Lawrenceville, Georgia 30046, known as Gwinnett Medical Center. As such, Defendant GHS employed physicians, nurses and other medical staff members, including but not limited to Defendants Giarrusso and Pikus.

11.

During the times relevant to the subject matter of this Complaint for Damages, Defendant Kaiser sold medical insurance, operated an HMO and healthcare facilities in the state of Georgia and employed physicians, nurses, and other staff members, including but not limited to Defendant Patel to provide medical services.

12.

During the times relevant to the subject matter of this Complaint for Damages, Defendant Giarrusso was employed by Defendant GMC as an anesthesiologist.

13.

During the times relevant to the subject matter of this Complaint for Damages, Defendant Pikus was employed by Defendant GMC as a Certified Registered Nurse Anesthetist (CRNA).

14.

During the times relevant to the subject matter of this Complaint for Damages, Defendant Patel was employed by Kaiser Permanente as a Certified Registered Nurse Anesthetist (CRNA).

15.

During the times relevant to the subject matter of this Complaint for Damages, Plaintiffs Keimesha and Rondy White were insureds of Defendant Kaiser and received medical and healthcare services through the HMO and facilities provided by said Defendant.

16.

During the times relevant to the subject matter of this Complaint for Damages, Plaintiff Keimesha White was a patient at GMC for the purpose of delivering her second child.

17.

Plaintiff Keimesha White delivered her first child in 2008. Because of complications with Pregnancy Induced Hypertension ("PIH")/Preeclampsia, the delivery was by Cesarean Section. Mrs. White's first pregnancy and delivery were considered and treated as high risk.

18.

Mrs. White's second pregnancy and delivery followed a similar, but more serious course. During her prenatal care, Keimesha was diagnosed with several very serious complications, including PIH/Preeclampsia, Gestational Diabetes Mellitus ("GDM"), and a low platelet count related to Lupus anti-coagulant syndrome. She was also determined to be a carrier of the Sickle Cell trait and the Cystic Fibrosis gene. Mrs. White's second pregnancy and the planned delivery were considered and treated as high risk.

19.

Despite the high risk nature of her second pregnancy, Mrs. White was given the option of choosing a trial of labor and vaginal birth after cesarean rather than a scheduled delivery by Cesarean Section.

20.

On September 5, 2012, Mrs. White was admitted to GMC for the management and treatment of the Preeclampsia for which she had been diagnosed. During this time, Mrs. White was monitored for various laboratory values, blood pressure, fetal and maternal status and urine protein. However, her blood pressure continued to be elevated. As a result of her worsening condition, Mrs. White was counseled to forego a trial of labor in favor of a repeat Cesarean Section.

21.

As pain control for the delivery of Plaintiff's baby on July 12, 2012, the anesthesia staff at GMC chose combined spinal epidural ("CSE"). The procedure was performed by Defendants Giarrusso, Patel and Pikus.

22.

According to Keimesha's chart from GMC, the spinal part of the procedure started at 9:13 p.m. At 9:21 p.m., the catheter for the epidural portion of the procedure was placed. At 9:53 p.m., the surgery was started and ended at 10:04 p.m. with the birth of Plaintiff's baby boy.

23.

At 10:09 p.m., an epidural infusion was started utilizing Demerol at 22 ml/hour.

24.

At 10:22 p.m., Defendant Pikus assumed responsibility for the procedure and finished it at 10:53 p.m.

25.

All monitoring for the procedure was stopped at 10:56 p.m. At 3:00 a.m. on July 13, 2012, Mrs. White was administered 30 mg of Toradol. The Demerol continued to infuse and was not discontinued until after 8:00 a.m.

26.

During the early hours of July 13, 2012, Keimesha experienced weakness in her legs which progressed to the point that she was unable to move them. By the end of the day, she had been diagnosed as suffering paraplegia.

27.

Since July 13, 2012, Plaintiff Keimesha White has been a paraplegic and is not expected to regain the use of her legs and other bodily functions. As a result of her condition, she required treatment at the Shepherd Spinal Center, was required to relocate her home to one which can accommodate her permanent disability and will require extensive medical care in the future. Moreover, Keimesha is incontinent of bladder and bowel and requires the use of a colostomy bag.

COUNT I

VICARIOUSLY LIABILITY OF DEFENDANT
GWINNETT HOSPITAL SYSTEM, INC.

28.

Plaintiffs adopt and incorporate by reference paragraphs 1 through 27 of their Complaint for Damages as if said paragraphs are set forth fully herein with respect to Count I of their Complaint for Damages.

29.

During the times relevant to this action, Defendant GMC employed physicians, certified nurse anesthetists and nurses as members of its anesthesia and nursing staffs, including but not limited to Defendants Giarrusso, Pikus and Fictitious Parties 1 through 5.

30.

At all times pertinent to this action, Defendants Giarrusso, Pikus and Fictitious Parties 1 through 5, as well as other members of the medical staff at Defendant GMC, were acting within the course and scope of their employment with Defendant GMC. Accordingly, Defendant GMC is vicariously liable under the doctrine *Respondeat Superior* for the conduct and any negligence on the parts of Defendants Giarrusso, Pikus, Fictitious Parties 1 through 5 and any other members of the medical staff at GMC.

COUNT II

**NEGLIGENT HIRING, TRAINING AND SUPERVISION
BY DEFENDANT GWINNETT MEDICAL CENTER**

31.

Plaintiffs adopt and incorporate by reference paragraphs 1 through 30 of their Complaint for Damages as if said paragraphs are set forth fully herein with respect to Count II of their Complaint for Damages.

32.

At all times relevant to this action, Defendant GMC employed physicians, certified registered nurse anesthetists, nurses and others, including but not limited to Defendants Giarrusso, Pikus and Fictitious Parties 1 through 5, who were responsible for providing anesthesia and other medical services to patients like Plaintiff Keimesha White.

33.

Defendant GMC negligently failed to hire physicians, certified nurse anesthetists, nurses and other professionals who were capable of providing anesthesia and other medical services in a timely, appropriate and safe manner to patients like Plaintiff Keimesha White.

34.

Defendant GMC negligently failed to train and supervise members of its medical staff to ensure that they were able to provide timely, appropriate and safe anesthesia and other medical services to patients like Keimesha White.

35.

Defendant GMC was negligent in retaining members of its anesthesia and nursing staffs who were incapable of providing timely, appropriate and safe anesthesia and other medical care to patients like Plaintiff Keimesha White.

36.

As an actual and proximate consequence of Defendant GMC's negligence in hiring, training and supervising members of its medical staff, including but not limited to Defendants Giarrusso, Pikus and Fictitious Parties 1 through 5, Plaintiff Keimesha White was catastrophically injured and is now a permanent paraplegic.

COUNT III

NEGLIGENCE OF DEFENDANTS GIARRUSSO AND PIKUS

37.

Plaintiffs adopt and incorporate by reference paragraphs 1 through 36 of their Complaint for Damages as if said paragraphs are set forth fully herein with respect to Count III of their Complaint for Damages.

38.

At all times relevant to the allegations set forth in Plaintiffs' Complaint for Damages, Defendants Giarrusso and Pikus were employed by Defendant GMC as an anesthesiologist and a CRNA, respectively.

39.

Defendants Giarrusso and Pikus failed to provide timely, appropriate and safe anesthesia care to Plaintiff Keimesha White before, during and after the birth of her second child on July 12, 2012. The negligence of Defendants Giarrusso and Pikus is set forth in detail in the affidavit of Samuel E. Wilson, M.D., attached hereto pursuant to O.C.G.A. § 9-11-9.1.

40.

As a proximate consequence of the negligence of Defendants Giarrusso and Pikus, Plaintiff Keimesha White sustained a catastrophic injury and is now permanently a paraplegic.

COUNT IV

NEGLIGENCE OF FICTITIOUS PARTIES 1 THROUGH 5

41.

Plaintiffs adopt and incorporate by reference paragraphs 1 through 40 of their Complaint for Damages as if said paragraphs are set forth fully herein with respect to Count IV of their Complaint for Damages.

42.

During the times relevant to this lawsuit, Defendant GMC employed nurses to provide nursing services to patients like Plaintiff Keimesha White.

43.

The nurses at GMC who were responsible for providing nursing services to Defendant Keimesha White remain unidentified at this point, but are designated herein as Fictitious Parties 1 through 5.

44.

The negligence of Fictitious Parties 1 through 5 is described in detail in the affidavit of Samuel E. Wilson, M.D., attached hereto pursuant to O.C.G.A. § 9-11-9.1(e).

COUNT V

**VICARIOUS LIABILITY OF DEFENDANT KAISER
FOUNDATION HEALTH PLAN OF GEORGIA, INC.**

45.

Plaintiffs adopt and incorporate by reference paragraphs 1 through 44 of their Complaint for Damages as if said paragraphs are set forth fully herein with respect to Count V of their Complaint for Damages.

46.

During the times relevant to this action, Defendant Kaiser Permanente was responsible for providing physicians, certified registered nurse anesthetists, and nurses to provide medical care to patients like Plaintiff Keimesha White.

47.

During all times relevant to this lawsuit, Defendant Kaiser Permanente employed Defendant Patel, a CRNA, and other nurses to provide anesthesia and other medical care to patients like Plaintiff Keimesha White. The nurses are designated herein as Fictitious Parties 1 through 5.

48.

During the times relevant to Plaintiffs' allegations, Defendant Patel and Fictitious Parties 1 through 5 negligently failed to provide anesthesia and other medical care to Plaintiff Keimesha White in a timely, appropriate and safe manner. The negligence of Defendant Patel and Fictitious Parties 1 through 5 is described in detail in the affidavit of Samuel E. Wilson, M.D., which is attached hereto pursuant to O.C.G.A. § 9-11-9.1(e).

49.

At all times relevant to Plaintiffs' claims in this action, Defendant Patel and Fictitious Parties 1 through 5 were acting within the course and scope of their employment with Defendant Kaiser. Accordingly, Defendant Kaiser is vicariously liable for the conduct and any negligence of Defendant Patel and Fictitious Parties 1 through 5 under the doctrine of *Respondeat Superior*.

50.

As an actual and proximate consequence of the negligence of Defendant Patel and Fictitious Parties 1 through 5, Plaintiff Keimesha White sustained a catastrophic injury and is now permanently a paraplegic.

COUNT VI

NEGLIGENT HIRING, TRAINING AND SUPERVISION BY DEFENDANT KAISER FOUNDATION HEALTH PLAN OF GEORGIA, INC.

51.

Plaintiffs adopt and incorporate by reference paragraphs 1 through 50 of their Complaint for Damages as if said paragraphs are set forth fully herein with respect to Count VI of their Complaint for Damages.

52.

Defendant Kaiser Permanente negligently failed to hire CRNAs and nurses who were capable of providing anesthesia and other medical care to patients like Keimesha White in a timely, appropriate and safe manner.

53.

Defendant Kaiser Permanente negligently failed to train and supervise Defendant Patel and Fictitious Parties 1 through 5 to ensure that they were able to provide anesthesia and other medical care to patients like Keimesha White in a timely, appropriate and safe manner.

54.

Defendant Kaiser Permanente was negligent in retaining Defendant Patel and Fictitious Parties 1 through 5.

55.

As an actual and proximate consequence of Defendant Kaiser Permanente's negligence in hiring, training, supervising and retaining Defendant Patel and Fictitious Parties 1 through 5, Plaintiff Keimesha White sustained a catastrophic injury and is now permanently a paraplegic.

COUNT VII

LOSS OF CONSORTIUM BY PLAINTIFF RONDY WHITE

56.

Plaintiffs adopt and incorporate by reference paragraphs 1 through 55 of their Complaint for Damages as if said paragraphs are set forth fully herein with respect to Count VII of their Complaint for Damages.

57.

As an actual and proximate consequence of the negligence of the Defendants as described herein, Plaintiff Rondy White has lost the love, society, companionship and services of his wife, Keimesha White. Since the negligence of the Defendants on or about July 12, 2012, Keimesha is a paraplegic and has permanently lost the use of her legs, is confined to a wheelchair and has no control over some basic bodily functions such as bladder and bowel. As such, Mrs. White is no longer able to provide the society, companionship and services she previously provided to Mr. White.

COUNT VIII

PUNITIVE DAMAGES

58.

Plaintiffs adopt and incorporate by reference paragraphs 1 through 57 of their Complaint for Damages as if said paragraphs are set forth fully herein with respect to Count VIII of their Complaint for Damages.

59.

The negligence of the Defendants as described in the preceding paragraphs of this Complaint was willful, wanton, oppressive and evidences that entire lack of care which raises the presumption of conscious indifference to the consequences. Accordingly, Plaintiffs are entitled to recover punitive damages under O.C.G.A. § 51-12-5.1.

COUNT IX

ATTORNEY'S FEES AND EXPENSES OF LITIGATION

60.

Plaintiffs adopt and incorporate by reference paragraphs 1 through 59 of their Complaint for Damages as if said paragraphs are set forth fully herein with respect to Count IX of their Complaint for Damages.

61.

There is no bona fide dispute as to the Defendants' liability for the injury of Plaintiff Keimesha White and Plaintiff Rondy White's loss of consortium and said Defendants have caused Plaintiffs unnecessary trouble and expense in forcing them to file this lawsuit to recover damages. Accordingly, Plaintiffs are authorized to recover expenses of litigation, including reasonable attorney's fees from the Defendants pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, Plaintiffs respectfully request that they be granted the following relief:

- (a) that a copy of the Summons and Complaint be served upon each of the Defendants;
- (b) that they have a trial by jury as to each and every appropriate issue;
- (c) the recovery of special damages, including, but not limited to past and future medical expenses and lost past and future income, in an amount to be proven at trial, but not less than \$78,218.00;
- (d) the recovery of general compensatory damages;
- (e) the recovery of damages for loss of consortium;
- (f) a judgment against each Defendant;
- (g) that all costs of this action be cast against the Defendants;

- (h) reasonable attorney's fees and litigation expenses under O.C.G.A. § 13-6-11;
- (i) punitive damages; and
- (j) any and all such further relief as the Court may deem just and appropriate.

This 2nd day of July, 2014.

STEWART, SEAY & FELTON, LLC

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