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IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL ACTION

CATHERINE PEARSON,
*Personal Representative in the
Estate of William Pearson*
5826 Eastern Avenue NE
Washington DC, 20012

Plaintiff

v.

MEDSTAR
WASHINGTON HOSPITAL CENTER, INC.
110 IRVING STREET NW
WASHINGTON DC, 20009

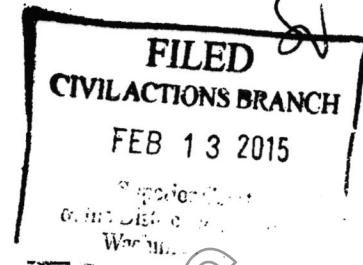
and

KAISER PERMANENTE, INC.
(PARENT CORPORATION:
MID ATLANTIC PERMANENTE, INC.)
700 SECOND STREET NE
WASHINGTON DC, 20002

and

AL HSI LIU, M.D.
110 IRVING STREET NW
WASHINGTON DC, 20009

Defendants



CIVIL ACTION NO.

15-0000999



PARTIES

1. Plaintiff Catherine Pearson is the surviving spouse of William Pearson, deceased, and is the appointed, qualified, and Personal Representative in the Estate of William Pearson, who died intestate while a resident of the District of Columbia.
2. Michael Pearson and Tayona Pearson are minors and the surviving

children of William Pearson and at the time of Decedent's death were dependent on the Decedent for their financial support, and guidance.

3. Plaintiff Catherine Pearson, individually and as Personal Representative in the Estate of William Pearson, brings this action for the benefit of the Decedent's estate pursuant to DC Code §12-101 (2010 Ed.) and for the benefit of Plaintiff's spouse and dependent children pursuant to DC Code § 16-2702 (2010 Ed.) to recover damages caused by the negligent death of the Decedent as set forth herein.

4. Defendant MedStar Washington Hospital Center (WHC) is a corporate medical provider licensed to conduct business in the District of Columbia with its principal offices located at 110 Irving Street NW Washington DC, 20009.

5. Defendant Mid Atlantic Permanent Group, Inc. doing business as Kaiser Permanente Inc. (Kaiser), is a corporate medical provider licensed to conduct business in the District of Columbia with its principal office located at 700 Second Street NE, Washington DC, 20002.

6. Defendant Al Hsi Liu, M.D. is a physician who practices within a subspecialty known as Interventional Radiology. He is licensed to practice medicine in the District of Columbia and operates from an office located at 110 Irving Street NW, Washington DC, 20009.

7. All requirements under DC Code § 16-2802 (2010 Ed.) requiring that Defendants receive notification of this action prior to the filing of the Complaint have been satisfied.

FACTS

8. Decedent had been a patient at Kaiser prior to 2001. He had a history of prostate cancer which had gone into remission in 2003, but which was found to have metastasized to the lower spine in 2009. He also had a history of high blood pressure, diabetes, Hepatitis C and obesity, among other medical conditions.

9. Prior to January 25, 2013, agents, servants, and employees of Defendant Kaiser in the course of their employment referred Decedent to Defendant MedStar

Washington Hospital Center, Inc. (WHC) to treat and/or evaluate his complaint of low back pain secondary to metastatic prostate cancer.

10. Thereafter, a decision was made by physicians at Defendant WHC and Kaiser that Decedent undergo a Percutaneous Balloon Kyphoplasty (Kyphoplasty). The procedure involved the injection of cement into the bone at the effected vertebral location in order to stabilize or elevate bone tissue to its former height or condition.

11. Under certain anatomical and radiographic circumstances, the procedure had been shown to reduce lower back pain and discomfort. The procedure was known in the medical community as having a low risk for complications, could be performed on an ambulatory basis, and was theorized by Defendants as an appropriate modality to address Decedent's lower back pain.

12. On January 25, 2013, Decedent reported to the Ambulatory Care Facility at WHC to undergo the subject procedure following an earlier preoperative evaluation. He was advised that the Kyphoplasty would be completed in approximately an hour, was minimally invasive, and after recovery, he would be discharged to return home.

13. Decedent was initially administered 200 mcg/kg of Fentanyl and 4 mg of Versed. As Dr. Liu began inserting the needle into the bone above the L-1 vertebral interspace, Decedent indicated that he could feel the insertion of the needle. In response, a second dose of anesthesia, consisting of 50 mcg/kg of Fentanyl and 1mg of Versed was administered.

14. Immediately, Decedent exhibited spasm and jerky movements, symptoms associated with Bradycardia, and went into cardio-pulmonary arrest. A Code Blue was announced after which Defendants, including their servants, agents or employees, were unable to effectuate a successful resuscitation. An entry in the medical record indicated that the symptoms leading up to Decedent's condition were secondary to Anoxic Encephalopathy (brain damage due to lack of oxygen).

15. After being placed on a ventilator and receiving other modes of life support, Decedent's wife was advised that there was no chance for a recovery.

Thereafter, life support was terminated and Decedent's death pronounced on February 15, 2013.

16. A February 17, 2013, Autopsy Report completed by the District of Columbia Office of the Chief Medical Examiner found that the cause of Decedent's death was "Anoxic Encephalopathy due to cardiopulmonary arrest following induction of Anesthesia for balloon Kyphoplasty in the lower lumbar area for the treatment of chronic back pain due to Metastatic Prostate Cancer." (See: Exhibit A)

17. All physicians and support staff of Defendants either present during the aborted procedure or who otherwise delivered treatment to Decedent were under a duty to avoid delivering medical care to Decedent that deviated from acceptable standards of medical care or created an unreasonable risk of injury or death.

18. Defendants Liu, and WHC, including their agents, servants and employees deviated from acceptable standards of medical care including but not limited to the following:

- a. Failing to obtain and consider Decedent's past medical History;
- b. Failing to keep apprised of current literature in the fields of specialization;
- c. Failing to accurately diagnose Decedent's need for the subject procedure;
- d. Failing to determine if the Kyphoplasty procedure would effectively reduce Decedent's complaints of back pain;
- e. Failing to provide or have accessible the appropriate manpower needs and equipment necessary to successfully complete the surgical procedure without subjecting Decedent to unreasonable risk of harm;
- f. Failing to follow or employ approved methods in general use in performing test diagnosis or examination as required of medical providers with the same degree of skill, knowledge, care and attention;
- g. Failing to adequately prepare for complications that were likely to arise in performing the surgical procedure;
- h. Failing to adequately, sufficiently or accurately monitor and record the Decedent's vital signs following the administration of anesthetic agents;

- i. Failing to administer, consistent with the standard of care, the correct type and amount of anesthetic agent at required intervals consistent with Decedent's medical history, age, weight and body mass, and;
- j. Failing to adequately or timely respond to the needs of Decedent to be resuscitated.

19. Defendant Kaiser, including its agents, servants and employees, had a duty to confer with or provide referring medical providers with information regarding Decedent's medical history which would be relevant in connection with being anesthetized, undergoing a surgical procedure, presenting potential for complications, Bradycardia, and/or being successfully resuscitated should the need arise.

20. In addition, Defendant Kaiser had a duty to obtain and provide such medical testing results and related radiographic imaging which would permit the nature and extent of Decedent's disease, particularly at the L-1 level, to be accurately assessed by WHC. Precise and accurate imaging was also necessary in order to determine the manner and location where the surgical procedure was to be performed as well as to assess if such procedure, when completed, would be anatomically probative in reducing Decedent's lower back pain.

21. At all times relevant, Decedent was free of negligence or contributory negligence, did not assume any risk, and in no way contributed to the subject complications or his resultant death.

22. While under the effects of anesthesia, Decedent entrusted his care and wellbeing to the Defendant Kaiser. In the normal course of events, the complications suffered by Decedent would not normally result in death if appropriate standards of medical care and hospital protocols were followed. Therefore, Plaintiff relies on the inference of negligence provided under the doctrine of *Res Ipsa Loquitur* in establishing her claims against the Defendant. Plaintiff further relies on the lack or absence of informed consent and *respondeat superior* against all Defendants.

COUNT I
Medical Malpractice
(Wrongful Death)
DC Code §12-101)

23. Plaintiff incorporates the allegations contained in Paragraphs 1 through 22 of the Complaint as if fully recited herein.

24. In referring Decedent's care to WHC, Kaiser deviated from the required standards of medical care by failing to either confer, providing information relative to Decedent's medical history, or in providing radiographic imaging which would foster an accurate review of the surgical site, the need for such a procedure, and the likelihood that the objectives of performing the procedure would be realized.

25. In attempting to perform Kyphoplasty, Defendant WHC deviated from numerous medical standards of care previously referenced.

26. As a result of the aforesaid deviations from the medical standard of care, acts of negligence or omissions, Plaintiff Catherine Pearson, (Michael Pearson, A Minor, and Tayona Pearson, A Minor) have been deprived of Decedent's financial support, guidance, companionship, and society.

WHEREFORE, Plaintiff requests that judgment be entered against MedStar, Kaiser, and Al Hsi Liu, M.D., jointly and severally, in the amount of \$2,000,000 (Two Million Dollars), costs and interest at the rate provided by law.

COUNT II
Medical Malpractice
(Survival Action)
DC Code §16-2701

27. Plaintiff incorporates the allegations contained in Paragraphs 1 through 22 of the Complaint as if fully recited herein.

28. At all times relevant, all Defendants through their agents, servant and employees including Defendant Liu owed Decedent a duty to deliver safe and adequate medical care and not subject him to unreasonable risk of harm.

29. Defendant Al Hsi Liu, M.D., and WHC, including their agents, servants, and employees deviated from the required standards of medical care including but not limited to the following:

- a. Failing to obtain and consider Decedent's past medical history;
- b. Failing to stay informed of research and current literature studies in the fields of specialization including Kyphoplasty, Sedation and Anesthesia;
- c. Failing to accurately diagnose Decedent's need for the subject procedure;
- d. Failing to conduct or recommend the correct procedure that would reasonably resolve Decedent's complaints;
- e. Failing to follow or employ approved methods in general use in performing test diagnosis or examination as required of medical providers with the same degree of skill, knowledge, care and attention;
- f. Failing to provide the appropriate manpower needs and medical equipment necessary for the planned surgical procedure;
- g. Failing to adequately prepare for complications that may arise in performing the subject procedure;
- h. Failing to have accessible the equipment and related resources necessary to complete the surgical procedure consistent with the required standards of medical care;
- i. Failing to adequately and sufficiently monitor the Decedent's vital signs during the administration of anesthetic agents so as to maintain required oxygen saturation levels;
- j. Failing to administer the correct type and amount of anesthetic agent at appropriate intervals consistent with the required standard of care considering Decedent's medical history age, weight and body mass, and;
- k. Failing to adequately and timely respond to a Code Blue consistent with the required standard of care and hospital protocols.

30. As a direct and proximate result of the aforesaid acts and omissions, Plaintiff has incurred great medical and hospital cost and bills, funeral expenses, suffered great pain, shortness of life expectancy, scars, and severe disabilities.

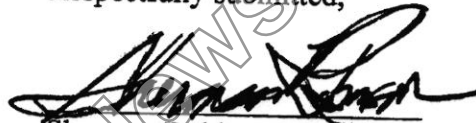
31. Plaintiff has also suffered death caused by the Defendants' mismanagement, suffered mental anguish, before death, the loss of enjoyment of life, deformities, inconvenience, humiliation and loss of earnings both past and future, and other damages.

WHEREFORE, Catherine Pearson, Personal Representative in the Estate of William Pearson, requests that judgment be entered, jointly and severally, against Med Star Washington Hospital Center, Inc., Kaiser Permanente, Inc., and Al Hsi Liu, M.D., in the amount of Three Million Dollars (\$3,000,000.00) plus costs and interest at the rate provided for by law.

JURY DEMAND

Plaintiff demands a jury trial on all issues so triable

Respectfully submitted,



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