

**VIRGINIA:**

**IN THE CIRCUIT COURT FOR THE COUNTY OF FAIRFAX**

ROBERT L. GARDNER, JR.  
Plaintiff

v.

KAISER FOUNDATION HEALTH PLAN OF  
THE MID-ATLANTIC STATES, INC.

SERVE:  
Corporation Service Company  
Registered Agent  
1111 E. Main Street, 16th Floor  
Richmond, VA 23219

and

KAISER FOUNDATION HEALTH PLAN, INC.

and

MID-ATLANTIC PERMANENTE MEDICAL  
GROUP, P.C.

Defendants

2016 12938

CASE NO. \_\_\_\_\_

**COMPLAINT**

COMES NOW the Plaintiff, Robert L. Gardner, Jr., and  
files this Complaint, and states as follows.

1. The Plaintiff is a resident of Springfield, Virginia,  
and in the County of Fairfax. The Defendants are physicians  
and health care providers licensed to practice medicine in  
the Commonwealth of Virginia, and are regularly engaged in  
the practice of medicine in Springfield, Virginia.

2. Further, the Defendants operate numerous health care facilities throughout the northern Virginia area, as well as throughout the Washington D.C. metropolitan area including Maryland. The physicians and other health care providers working at the Defendants health care facilities are agents of, servants and/or employees of the Defendants.

3. The Plaintiff uses the Springfield Kaiser Health facility because of the convenient location for Plaintiff, and Plaintiff has a Primary Care Doctor at the Springfield Health Care facility, Jerry J. Sullivan, MD, in the Internal Medicine Department.

4. On the weekend of September 13, 2014 the Plaintiff was experiencing sinus pain and sinus congestion problems. On Monday, September 15, 2014 the Plaintiff called the Kaiser appointment nurse and got an appointment confirmed for Tuesday morning, September 16, 2014, with the Plaintiff's Primary Care Doctor, Jerry J. Sullivan MD.

5. The above said Primary Care Doctor entered a Visit Diagnosis of ACUTE SINUSITIS, and placed a prescription at the Kaiser Pharmacy downstairs on the 1st floor of the Kaiser Health Care Facility for the drug CEFUROXIME AXETIL 500 MG Oral Tablet (Generic For CEFTIN) for pickup by Plaintiff on that same day.

6. The Plaintiff picked up the prescription that day and as per directions started using the CEFTIN medication.

7. After taking the CEFTIN medication for only one full day ( 1 Tablet by mouth 2 times per day for sinus ), the Plaintiff woke up on the morning of September 18, 2014 and immediately noticed a "skin rash" on his face and body. The Plaintiff suspecting that the rash was an allergic reaction to the new medication CEFTIN, did not take any more of the medication, and immediately called the Kaiser appointment nurse for an appointment as soon as possible with the Primary Care Doctor that morning.

8. Having confirmed an appointment for that morning, the Plaintiff arrived at the Primary Care Doctor's office at approximately 11:30 am, September 18, 2014 for medical examination and diagnosis.

9. During that medical examination, the said doctor concurred that the Plaintiff should not take any more of the CEFTIN medication; and further, the doctor wanted Plaintiff to come back for a follow up examination on the following day. On this this day, September 18, 2014, the Primary Care Doctor entered on the Plaintiff's medical record a Vist Diagnosis of ALLERGIC REACTION, INIT - Primary.

10. Plaintiff returned to the Primary Care Doctors office the next day on September 19, 2014 for follow up examination.

After examination at this follow appointment, the Primary Care Doctor tried to get Plaintiff seen by a Dermatologist at the Kaiser Dermatology Department, which was located upstairs in the same building. However, Dermatology was over-booked that day, and could not see the Plaintiff until first appointment on Monday morning, September 22, 2014.

11. The Primary Care Doctor entered a Visit Diagnosis of DERMATITIS for the Friday follow-up visit on September 19, 2014.

12. By Monday Morning, Plaintiff's condition had become worse, and Plaintiff enlisted the help of his spouse to drive the vehicle to Plaintiff's 8:45 am, September 22, 2014 appointment. Plaintiff saw Anju Pabby, MD Dermatology. Dr. Pabby did not conduct an examination but rather referred Plaintiff go directly to Emergency at Virginia Hospital Center at 1701 N. George Mason Drive, Arlington, Virginia. Plaintiff's spouse drove directly to Virginia Hospital Center Emergency Room.

13. Virginia Hospital Center took Plaintiff immediately into emergency services and conducted examination and blood tests as well as other testing. Within a fairly short period of time, Doctors advised Plaintiff that they were referring and transferring the Plaintiff by ambulance to the Washington Med-Star Trauma Center.

14. Washington Med-Star trauma doctors conducted an examination of Plaintiff, including blood test and skin biopsy tests, and concluded that the Plaintiff had suffered an allergic reaction to the drug CEFTIN; and that said allergic reaction had resulted in a condition known as STEVENS JOHNSON SYNDROME.

15. The Plaintiff was admitted to the Washington Med-Star Trauma Center that day on September 22, 2014. The Plaintiff remained hospitalized at said Trauma Center with daily treatment through September 27, 2014.

16. The Plaintiff was released to go home, with a rigid schedule of home care procedures that went on for many months.

17. Stevens Johnson Syndrome comes with many new side effects that remain with the patient long after the SJS conditions have been resolved; and Plaintiff continues to suffer from many of those side effects such as blurred vision, pustular psoriasis, joint pain, chronic fatigue, cold sensitive, depression, gastrointestinal problems and others.

18. The Kaiser Health Patient Information page clearly shows that the Plaintiff has an allergy to AMPICILLIN, and such allergy information has been listed for the Plaintiff in the Kaiser Health Plan records for over 10 years.

19. The Defendants did know or should have known that CEFTIN was not an appropriate prescription for a patient with an allergy to Ampicillin; and the Defendants were

negligent and careless in providing the CEFTIN prescription.

20. The Defendants were negligent and careless by placing the Plaintiff at risk for having a severe allergic reaction to a medication.

21. The Defendants were negligent and careless in failing to timely and promptly diagnose and respond to the Plaintiff's symptoms, thereby allowing the condition to advance to a more dangerous and serious point.

WHEREFORE, the Plaintiff prays for an award of damages in the amount of \$950,000.00 plus interest and costs of this action.

JURY DEMAND

Pursuant to Rule 3:21 of the Rules of the Supreme Court of Virginia, the Plaintiff in the above captioned matter demands a trial by jury of all issues in this matter.

PLAINTIFF: ROBERT L. GARDNER, JR.

By: Robert L. Gardner

Robert L. Gardner, Jr.

6608 Hackberry Street  
Springfield, VA 22150