

DMOT

Clerk of the
Circuit Court

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

2016 NOV 23 AM 10:17

EMILE FAIRCHILD-PERRY
9423 Bluefield Road
Springdale, MD 20774

PR GEO CO MD # 94

Plaintiff,

v.

Civil Case No. CAL16-42815

MID-ATLANTIC PERMANENTE MEDICAL
GROUP, P.C. d/b/a KAISER PERMANENTE
KENSINGTON MEDICAL CENTER
2101 East Jefferson Street
Rockville, MD 20852

Serve: Resident Agent:
The Prentice-Hall Corporation System, MA
7 St. Paul Street
Suite 820
Baltimore, MD 21202

and

KAISER FOUNDATION HEALTH PLAN OF
THE MID-ATLANTIC STATES, INC.
2101 East Jefferson Street
Rockville, MD 20852

Serve: Resident Agent:
The Prentice-Hall Corporation System, MA
7 St. Paul Street
Suite 820
Baltimore, MD 21202

and

BRYAN S. WILLIAMS, M.D.
6188 Oxon Hill Road
Oxon Hill, MD 20745

Defendants.

Case: CAL16-42815
NEW CASE
APP FEE PLAIN 10.00
CV CLERK FEE- 80.00
MD LEGAL SERV 55.00
RIF - NEW CAS 30.00
TOTAL 175.00
Reg# PC20 Rpt # 27415
SJH AND Bk # 912
Nov 26, 2016 09:48 am

COMPLAINT

COMES NOW Plaintiff, Emile Fairchild-Perry, by counsel, and files this Complaint against Defendants Mid-Atlantic Permanente Medical Group, P.C. d/b/a Kaiser Permanente Kensington Medical Center, Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., and Bryan S. Williams, M.D. In support of her Claim, Plaintiff avers as follows:

FACTS RELEVANT TO ALL COUNTS

1. The amount of this claim exceeds \$30,000.00.
2. The venue of this claim is proper in Prince George's County, Maryland. Prince George's County is the venue in which Defendant Bryan S. Williams, M.D. is employed, the venue in which the Defendants routinely and regularly engage in their professional business activities, the venue in which Plaintiff was treated by the Defendants, the venue in which numerous essential likely witnesses in this case reside and/or are employed, the venue in which the Defendants continue to provide causally related and treatment to the Plaintiff, and the venue in which Plaintiff resides.
3. Plaintiff is an adult resident of Prince George's County, Maryland.
4. Defendant Mid-Atlantic Permanente Medical Group, P.C. ("Kaiser") is a Maryland corporation which hired, employed, and managed physicians, nurses, and staff at Kaiser health care facilities in Maryland including the Kaiser Permanente Kensington Medical Center and the Kaiser Permanente Largo Medical Center in Prince George's County, Maryland at all times relevant to this case.
5. Defendant Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. ("KFHP") is a Maryland corporation which hired, employed, and managed physicians,

nurses, and staff at Kaiser health care facilities in Maryland including the Kaiser Permanente Largo Medical Center ("Largo Medical Center") in Prince George's County, Maryland and the Kaiser Permanente Kensington Medical Center ("Kensington Medical Center") at all times relevant to this case.

6. Defendant Bryan S. Williams, M.D., at the time of the acts and occurrences alleged herein, was a licensed physician in the State of Maryland with a principal place of business in Prince George's County. Dr. Williams's license to practice medicine has since been suspended by the Maryland Board of Physicians.

7. At all times relevant hereto Dr. Williams was employed by Kaiser and was acting in the course and scope of his employment for Kaiser.

8. At all times relevant hereto Defendant Kaiser was responsible for the substandard and negligent acts of its employees, agents, and/or servants/contractors, including Defendant Dr. Williams. Accordingly, Kaiser was, and remains, vicariously liable to Plaintiff for the acts of its actual and apparent agents, including Dr. Williams, pursuant to the doctrine of respondeat superior. All references throughout this Complaint to the "Defendants" include, and also refer to, the acts and/or failures to act of Kaiser's employees, agents, and/or servants/contractors, including Dr. Williams.

9. On November 18, 2016 Plaintiff filed a Claim Form, Personal Information Certification, Statement of Claim with supporting Certificate of Merit and Report, and an Election to Waive Arbitration with the Health Care Alternative Dispute Resolution Office. Copies of all documents filed with the HCADRO are attached hereto, and incorporated herewith, collectively, as Plaintiff's Exhibit A.

10. On or about November 27, 2013 Plaintiff presented to Dr. Williams at Kensington Medical Center for treatment of Plaintiff's lower back pain.

11. Plaintiff was unaccompanied for her appointment with Dr. Williams during which Dr. Williams performed a physical examination of Plaintiff.

12. A Kaiser employed chaperone was not present during Dr. Williams's physical examination of Plaintiff.

13. At the beginning of the examination, Dr. Williams instructed Plaintiff to lie face down on the examining table and to pull down her pants. Plaintiff complied and pulled her pants down to the middle of her thighs and also pulled her underwear down to the top of her buttocks.

14. Dr. Williams, without Plaintiff's consent or clinical justification, squeezed Plaintiff's upper legs and lower buttocks with his hands and moved his hands between Plaintiff's legs.

15. Dr. Williams, without Plaintiff's consent or clinical justification, then moved his fingers near Plaintiff's vagina and anus. Dr. Williams continued to rub and squeeze the area between Plaintiff's inner thigh and vagina.

16. There was neither clinical basis nor consent for Dr. Williams to touch Plaintiff in the inappropriate manner in which he touched her.

17. Kaiser knew, or should have known, that similar inappropriate conduct by Dr. Williams had been reported to various Kaiser personnel by female patients prior to November 27, 2013.

18. In response to numerous complaints by female patients of inappropriate touching by Dr. Williams, Dr. Williams's employment as a physician at Kaiser was terminated on October 28, 2014.

COUNT I
(Negligent Supervision and Retention – Defendant Kaiser)

Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 18 of this Complaint, as if each allegation was fully set forth herein, incorporates each preceding allegation by reference, and further alleges as follows:

19. As of November 27, 2013 Kaiser knew, or reasonably could have discovered and should have known, of Dr. Williams's propensities to sexually batter, threaten, harm, assault, and otherwise mentally, physically, and emotionally injure female patients.

20. As of November 27, 2013, Kaiser knew that Dr. Williams was being placed into a position of employment where he would have unfettered access to vulnerable female patients without direct supervision, oversight, or monitoring.

21. Kaiser had a duty of care to Plaintiff, as well as to other female patients when hiring, retaining, supervising, and evaluating its prospective employees, including Dr. Williams, to timely, adequately, and appropriately heed and act on all reasonable suggestion that Dr. Williams had the propensity to, and/or had actually, inappropriately touched female patients in the course and scope of his employment for Kaiser.

22. Kaiser had a duty of care to plaintiff, as well as to other female patients, to prohibit Dr. Williams from privately interacting with Plaintiff as well as with other female patients, given Dr. Williams's propensity to sexually batter, threaten, harm, assault, and otherwise mentally, physically, and emotionally injure female patients.

Dr. Williams's continuing unfettered and unsupervised access to vulnerable female patients, including Plaintiff.

30. In breach of its duty of care, Kaiser negligently failed to timely, adequately, and appropriately supervise Dr. Williams when he physically examined female patients.

31. In breach of its duty of care, Kaiser negligently retained Dr. Williams when Kaiser knew, or should have known, of Dr. Williams's propensity to sexually assault, batter, and otherwise harm and injure vulnerable female patients, including Plaintiff.

32. As a direct and proximate cause of Kaiser's negligent supervision and negligent retention of Dr. Williams, Kaiser created a foreseeable risk of harm to its female patients, including Plaintiff.

33. As a direct and proximate result of Kaiser's negligent supervision and negligent retention of Dr. Williams, Plaintiff was assaulted and sexually battered by Dr. Williams while she was a patient at Kaiser, sustained serious and permanent injury, including great pain of mind and body, suffered mental and emotional distress, required substantial causally related medical treatment including extensive counseling, and incurred substantial related costs.

COUNT II

(Negligence – Respondeat Superior – Defendant Kaiser)

Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 33 of this Complaint, as if each allegation was fully set forth herein, incorporates each preceding allegation by reference, and further alleges as follows:

34. At all times relevant hereto, Dr. Williams was acting in the course and scope of his employment for Kaiser.

35. Dr. Williams took advantage of his position as a Kaiser physician to sexually assault and batter Kaiser patients, including Plaintiff.

36. Dr. Williams committed a sexual assault and battery against Plaintiff while he was acting as a physician for Kaiser, under the guise of medical treatment, and in furtherance of Kaiser's interests.

37. Dr. Williams's acts of sexual assault and battery against Plaintiff and other Kaiser patients were regularly committed at Kaiser's health care facilities.

38. Kaiser is vicariously liable for the actions of Dr. Williams within the course and scope of his employment.

39. As a direct and proximate result of Kaiser's negligence, Plaintiff was sexually assaulted and battered by Dr. Williams while she was a patient at Kaiser, sustained serious and permanent injury, including great pain of mind and body, suffered mental and emotional distress, required substantial causally related medical treatment including extensive counseling and incurred substantial related costs.

COUNT III
(Battery – Defendant Dr. Williams)

Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 39 of this Complaint, as if each allegation was fully set forth herein, incorporates each preceding allegation by reference, and further alleges as follows:

40. The conduct and actions of Dr. Williams including the sexual assault and battery of Plaintiff constitutes an intentional and offensive touching of Plaintiff to which Plaintiff did not consent.

41. The conduct and actions of Dr. Williams including the sexual assault and battery of Plaintiff were neither medically indicated nor clinically justifiable.

42. The intentional, nonconsensual touching of Plaintiff by Dr. Williams was highly offensive to Plaintiff's reasonable sense of dignity.

43. As a direct and proximate result of the Dr. Williams's conduct and actions, Plaintiff was physically, mentally, and emotionally injured, suffered great indignity and offense, suffered pain of mind and body, suffered mental and emotional distress, required substantial causally related medical treatment including extensive counseling for related treatment, and has incurred other substantial related costs.

COUNT IV
(Intentional Infliction of Emotional Distress – Defendant Dr. Williams)

Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 43 of this Complaint, as if each allegation was fully set forth herein, incorporates each preceding allegation by reference, and further alleges as follows:

44. Dr. Williams's conduct in sexually assaulting and battering Plaintiff was intentional and in deliberate disregard for the high degree of probability that Plaintiff would suffer emotional distress as a result.

45. Dr. Williams's conduct in sexually assaulting and battering Plaintiff was extreme and outrageous.

46. Dr. Williams's conduct and actions were the direct and proximate cause of severe emotional distress to Plaintiff.

47. As a direct and proximate result of Dr. Williams's extreme, outrageous, and intentional conduct, Plaintiff was, and remains, severely physically, mentally, and emotionally injured, suffered and continues to suffer great pain of mind and body, suffered and continues to suffer mental and emotional distress, has incurred and will

continue to incur causally related medical expenses for related treatment, and has incurred and will continue to incur other substantial related costs.

COUNT V
(Premises Liability – Defendant Kaiser)

Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 47 of this Complaint, as if each allegation was fully set forth herein, incorporates each preceding allegation by reference, and further alleges as follows:

48. At all times relevant hereto Defendant Kaiser had a duty to its patients, including Plaintiff, to provide a safe premises, free of the risk of harm and/or injury by the Defendant's employees and/or agents. Future sexual assaults and batteries of the sort suffered by Plaintiff were entirely preventable had the Defendant timely, adequately, and appropriately prevented Dr. Williams's continuing unfettered access to vulnerable female patients, including Plaintiff.

49. In breach of its duty to Plaintiff, Defendant Kaiser negligently failed to provide safe premises, free of the risk of harm and/or injury by the Defendant's employees and/or agents, including Dr. Williams. Defendant Kaiser had ample notice and opportunity to ensure the safety of its female patients, including Plaintiff, from being the victims of future sexual assaults and batteries committed by Dr. Williams.

50. As a direct and proximate result of Defendant Kaiser's negligence in failing to maintain a safe premises and to otherwise protect Plaintiff from harm, Plaintiff was sexually assaulted and battered while a patient at Kaiser's Largo Medical Center.

51. As a direct and proximate result of the Dr. Williams's conduct and actions, Plaintiff was physically, mentally, and emotionally injured, suffered great indignity and offense, suffered pain of mind and body, suffered mental and emotional distress, required

substantial causally related medical treatment including extensive counseling for related treatment, and has incurred other substantial related costs.

COUNT VI
(Punitive Damages – Defendants Kaiser and Dr. Williams)

Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 51 of this Complaint, as if each allegation was fully set forth herein, incorporates each preceding allegation by reference, and further alleges as follows:

52. Defendant Dr. Williams's conduct in sexually assaulting and battering Plaintiff under the guise of medical treatment evidences evil motive, intent to injure, ill will, and fraud, constituting actual malice.

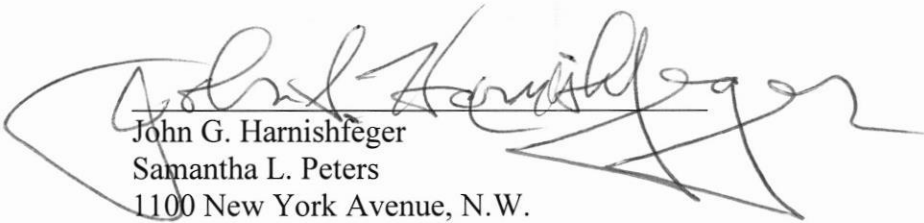
53. Defendant Kaiser's conduct in permitting Dr. Williams to continue to have unfettered, unsupervised, and unmonitored personal access to, and contact with, female patients after Defendant Kaiser knew that Dr. Williams had assaulted and battered other female patients evidences conscious and deliberate wrongdoing constituting actual malice.

54. Future sexual assaults and battery of the kind suffered by Plaintiff were foreseeable and entirely preventable had Defendant Kaiser timely, adequately, and appropriately prevented Dr. Williams's continuing unfettered access to vulnerable female patients, including Plaintiff.

WHEREFORE, Plaintiff moves for judgment against the Defendants, in an amount in excess of applicable jurisdictional limits, any award to include compensation for Plaintiff's physical, mental, and emotional injuries, causally related medical expenses, pain and suffering, plus interest and costs of this action, punitive damages, and any other appropriate relief.

Respectfully submitted,

THE COCHRAN FIRM



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Washington, DC 20005
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Attorneys for Plaintiff

JURY DEMAND

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



John G. Harnishfeger

CERTIFICATE OF GOOD STANDING

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



John G. Harnishfeger