

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

JANOS SERES,
18421 Crownsgate Circle
Germantown, MD 20874

Plaintiff,

v.

Case No. 452361

**MID-ATLANTIC PERMANENTE
MEDICAL GROUP, P.C.,**
2101 E. Jefferson St
Rockville, MD 20852

Serve:

Jeremy Krum, Esq.
Gretchen Slater, Esq.
Armstrong, Donohue, Ceppos, Vaughan
& Rhoades, Chtd.
204 Monroe Street #101
Rockville, MD 20850

Defendant.

COMPLAINT

1. This case arises from injuries suffered by Janos Seres when a surgeon employed by the defendant performed mutilating surgery on Mr. Seres based on a mistaken impression, by the surgeon and by other physicians employed by the defendant, that he might have had an aggressive rare skin cancer.

Jurisdiction

2. This case presents a claim against health care providers for medical injury within the meaning of Md. Code Cts. & Jud. Proc. §3 -2A-01. The claim was presented to the Health Claims Alternative Dispute Resolution Office of Maryland, and the plaintiff

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FILED
CLERK OF COURT
MONTGOMERY COUNTY, MD

waived arbitration pursuant to Md. Code Cts. & Jud. Proc. Section §3-2A-06B(b)(1). The Order of Transfer was issued on June 29, 2018.

Parties

3. The plaintiff Janos Seres was born on May 18, 1971. He lives at 18421 Crownsgate Circle, Germantown, MD 20874 with his wife Aranka. Together they run a car body shop.
4. The defendant is Mid-Atlantic Permanente Medical Group, P.C. (MAPMG). MAPMG was at all relevant times the employer of the physicians and surgeons identified in this Complaint who provided the negligent medical care complained of in this case, all of which occurred at various Kaiser Permanente Mid-Atlantic (Kaiser) medical facilities in Maryland and Virginia.

Background

5. Janos Seres, then age 46, went to a Kaiser internal medicine clinic in Gaithersburg, Maryland on September 14, 2017, with a small raised wart on the outside of his left ear canal. He was referred to an ear-nose-throat Kaiser clinic, where the next day Dr. Deborah Cheung inspected the wart. Dr. Cheung described it as a 5 mm raised purplish nodular lesion with an irregular surface, and performed an excisional biopsy. She sent the removed tissue to Kaiser's regional pathology laboratory in Rockville, MD.
6. On September 28, 2017, the Kaiser department of pathology, Eun Oh, M.D., reported the specimen No. RS17-49466 as "Atypical vascular proliferation, favor epithelioid angiosarcoma," with positive margins and special staining positive for Factor VIII and ERG and negative for HHV-8, which the report writer, Dr. Oh, described as "supporting the above diagnosis."

7. On October 2, 2017, Dr. Cheung met with Mr. and Mrs. Seres and wrote a note stating that Mr. Seres had “vascular cutaneous malignancy, likely cutaneous angiosarcoma. Discussed with pt and his wife that this is a rare, aggressive high-grade malignancy known for subclinical spread and multifocal disease, with high rate of local-regional recurrence and distant metastasis. Discussed need for aggressive treatment which likely will be wide local excision (typically at Least 3cm margins), and adjuvant XRT, staged reconstruction after margins are determined clear. Possible role for chemotherapy.”
8. Dr. Cheung then sent Mr. Seres to Dr. Edward Tsong, a head-and-neck surgeon at Kaiser’s facility in Tysons Corner, VA. He wrote a note on October 4, 2017, describing this as “c/w” (“consistent with”) angiosarcoma. Dr. Tsong told Mr. Seres that he had angiosarcoma and would need a “wide excision” including likely removal of the entire outer ear and the auditory canal down to the ear drum (tympanic membrane).
9. Dr. Tsong gave Mr. Seres no other options and, having been told that radical disfiguring surgery was his only chance to live, Mr. Seres consented to the surgery.
10. On October 17, 2017, Dr. Tsong operated on Mr. Seres at the Kaiser Tysons Surgery Center in McLean, VA. He removed Mr. Seres’s entire left outer ear (auriclectomy), plus the entire ear canal including all skin and cartilage, and he did a canaloplasty, drilling out the bony margins of the auditory canal with burrs.
11. The pathology specimens from the removed ear and ear canal were found by the Kaiser pathology laboratory to be free of any cancer and also free of “atypical vascular proliferation.” The pathologist who interpreted this study, Anthony Chi, M.D., compared the specimen to the earlier biopsy by Dr. Cheung and decided that the biopsy showed

only “atypical vascular proliferation,” with no mention of even a possibility of actual cancer.

12. Kaiser sent the biopsy specimen to Dr. Petur Nielsen, a pathologist at Massachusetts General Hospital in Boston, who wrote a report in December 2017 disputing Kaiser’s initial diagnosis of angiosarcoma. Dr. Nielsen wrote that re-excision of the biopsy site “is probably warranted” because the margins were positive. He apparently did not know that the Kaiser surgeon had already performed much more radical surgery.
13. The biopsy specimen also was interpreted by Dr. Markku Miettinen of the National Institutes of Health on December 1, 2017. He diagnosed the lesion as “epithelioid hemangioma with focal atypia.” He said in a comment note that the specimen showed only focal atypia “without evidence for malignancy.”
14. After receiving Dr. Nielsen’s report in January 2018, the Kaiser physicians decided that Mr. Seres had never had angiosarcoma. They dropped plans to have him undergo radiation treatment and chemotherapy.
15. Mr. Seres needs extensive reconstruction both to restore a natural-looking ear and to try to re-open his ear canal. He has had numerous consultations with specialists and has struggled with depression and fear of losing his hearing in that ear.
16. Mr. Seres has experienced and will experience physical pain, emotional suffering, disfigurement, embarrassment, humiliation, and other strong emotions because of the mutilating ear removal surgery he underwent with the Kaiser surgeons, which was unnecessary and never should have been performed.
17. The pathologists in the Kaiser regional laboratory, including the report writer Dr. Eun Oh and other pathologists who participated in the original biopsy report, violated the

applicable standard of care by diagnosing Mr. Seres's biopsy as epithelioid angiosarcoma when it was obvious from their report that they were not certain of the diagnosis and they knew the diagnosis would have severe surgical consequences for the patient. No reasonably competent pathologist would call this specimen definitive epithelioid angiosarcoma. The Kaiser pathologists learned, too late, that the biopsy could not reasonably be interpreted as epithelioid angiosarcoma when they compared the biopsy slides to the removed ear specimen and then again when they sent the biopsy slides out for independent review.

18. The Kaiser surgeon Dr. Deborah Cheung was negligent and violated the applicable standard of care by diagnosing Mr. Seres as having a definite "vascular cutaneous malignancy," which she concluded was "likely cutaneous angiosarcoma," when the pathology report she based that on did not say there was a definite cancer and when its tentative conclusion was inconsistent with the clinical appearance which she had observed and which she had first described as a "likely wart" before doing an excisional biopsy. Dr. Cheung also was negligent and violated the applicable standard of care by telling Mr. Seres, before the diagnosis of cancer was confirmed, that he needed radical surgery and by sending Mr. Seres to Kaiser oncologic surgeons.
19. The Kaiser surgeon Dr. Tsong was negligent and violated the applicable standard of care by proceeding with radical mutilating surgery on Mr. Seres before confirming that Mr. Seres in fact had the deadly type of cancer which Dr. Tsong mistakenly assumed Mr. Seres had.
20. The injury to Mr. Seres from both the pathologist's negligence and the negligence of Dr. Cheung and Dr. Tsong occurred in Virginia when Mr. Seres underwent the ear and ear

canal removal surgery with Dr. Tsong. Therefore, under Maryland's lex loci choice-of-law rule, Virginia substantive law applies to this case, including Virginia law on damages in a medical negligence action.

Damages

21. Janos Seres has experienced and will experience disfigurement, humiliation, physical pain, emotional suffering, loss of hearing, lost time from work, lost earnings and lost earning capacity, lost services, and medical and related expenses.
22. The plaintiff Janos Seres demands judgment against the defendant MAPMG in an amount in excess of \$75,000.

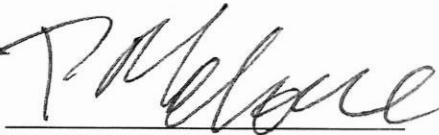
Respectfully submitted,


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Jury Demand

The plaintiff demands a jury trial.


Patrick A. Malone