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HEALTH CARE
ALTERNATIVE DISPUTE
RESOLUTION OFFICE

LINDA M. DUBOIS
1310 Potomac Avenue
Hagerstown, Maryland 21742

and

KENNETH DUBOIS
1310 Potomac Avenue
Hagerstown, Maryland 21742

Claimants

v.

PRAKASH VAIDYANATHAN, M.D.
111 West High Street
Suite 203
Elkton, Maryland 21921

and

TRI-STATE SURGICAL
ASSOCIATES, LLC
111 West High Street
Suite 203
Elkton, Maryland 21921

SERVE ON:
Jeffrey M. Pecore
Suite 202W
9123 Old Annapolis Road
Columbia, Maryland 21044

Defendants

BEFORE THE

HEALTH CARE

ALTERNATIVE DISPUTE

RESOLUTION OFFICE

HCADR No.: 2009·033

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COMPLAINT

COUNT I

COMES NOW the Claimant, LINDA M. DuBOIS, by her attorneys

and sue PRAKASH VAIDYANATHAN, M.D., and TRI-STATE SURGICAL ASSOCIATES, LLC, Defendants, and states as follows:

1. At all times of which the Claimant complains, the Defendant Prakash Vaidyanathan, represented to the Claimant and the public that he possessed the degree of skill, knowledge and ability possessed by a reasonably competent medical practitioner, practicing under the same or similar circumstances as those involving the Claimant.

2. The Claimant alleges that the Defendant Prakash Vaidyanathan, owed to the Claimants the duty to exercise the degree of care, skill and judgment expected of a competent medical practitioner acting in the same or similar circumstances, which duty included the performance of adequate and proper diagnostic tests and procedures to determine the nature and severity of the Claimant's condition, careful diagnosis of such condition, employment of appropriate procedures, surgery and/or treatment to correct such conditions without injury upon the Claimant, continuous evaluation of the Claimant's condition and the effects of such treatment, and adjustment of the course or treatment in response to such ongoing surveillance and evaluation -- all of which this Defendant failed to do.

3. The Defendant Prakash Vaidyanathan, was negligent in that he failed to employ appropriate treatment, surgery, tests and/or procedures, failed to carefully and thoroughly evaluate the Claimant's condition, failed to properly and appropriately diagnose the Claimant's condition, failed to thoroughly evaluate the effects and results of any tests and/or procedures performed, failed to properly evaluate the effects of chosen treatment, failed to adjust the Claimant's treatment in response to appropriate evaluation of the effects of treatment, failed to properly monitor the course of the Claimant's condition and treatment, failed to employ adequate and proper diagnostic procedures and/or tests to determine the nature and extent of the Claimant's condition, and was otherwise negligent.

4. The Claimant alleges that the Defendant Tri-State Surgical Associates, LLC, through its agents, servants and/or employees, owed to the Claimant the duty to exercise the

degree of care, skill and judgment expected of a competent medical corporation acting in the same or similar circumstances, which duty included the performance of adequate and proper diagnostic tests and procedures to determine the nature and severity of the Claimant's condition, careful diagnosis of such condition, employment of appropriate procedures, surgery and/or treatment to correct such conditions without injury upon the Claimant, continuous evaluation of the Claimant's condition and the effects of such treatment, and adjustment of the course or treatment in response to such ongoing surveillance and evaluation -- all of which the Defendant failed to do.

5. The Defendant Tri-State Surgical Associates, LLC, through its agents, servants and/or employees, was negligent in that they failed to employ appropriate treatment, surgery, tests and/or procedures, failed to carefully and thoroughly evaluate the Claimant's condition, failed to properly and appropriately diagnose the Claimant's condition, failed to thoroughly evaluate the effects and results of any tests and/or procedures performed, failed to properly evaluate the effects of chosen treatment, failed to adjust the Claimant's treatment in response to appropriate evaluation of the effects of treatment, failed to properly monitor the course of the Claimant's condition and treatment, failed to employ adequate and proper diagnostic procedures and/or tests to determine the nature and extent of the Claimant's condition, and was otherwise negligent. At all times referred to herein, the Defendant Vaidyanathan acted for himself and as a duly authorized agent, servant and/or employee of the Defendant Tri-State Surgical Associates, LLC.

6. As a direct and proximate result of the negligence of these Defendants, the Claimant Linda M. DuBois, suffered severe physical pain, emotional anguish, fear and anxiety over her condition and is left with serious permanent disability, for which claim is made and as is more fully described herein below.

7. In or about September, 2006, the Claimant Linda M. DuBois began experiencing right upper quadrant pain, and nausea intermittently. After seeing her general care physician and undergoing an ultrasound, among other tests, a diagnosis of gall stones was made. The Claimant came under the care of the Defendant Prakash Vaidyanathan, M.D. and presented to the Union Hospital in Elkton, Maryland on October 10, 2006. At that time, it was recommended that a laparoscopic cholecystectomy (gallbladder removal) be performed, given her clinical signs and symptoms. Accordingly, the Claimant presented to the Union Hospital for such surgery, under the care of the Defendant Vaidyanathan, who acted as her primary surgeon and physician while confined to Union Hospital. At all times referred to herein, the Defendant Vaidyanathan acted on his own behalf as well as a duly authorized agent and/or employee of the Defendant Tri-State Surgical.

8. On the morning of October 10, 2006, the Claimant was taken into the operating room and prepared to undergo a laparoscopic cholecystectomy. Contrary to the standards of care, the Defendant Vaidyanathan, failed to identify, isolate and protect the common bile duct, and other structures, during the course of this surgical procedure. It is alleged that the standards of care required the Defendant Vaidyanathan to carefully remove the gall bladder without injuring the surrounding tissues and/or structures. However, as a direct and proximate result of the negligence of the Defendant in failing to identify, isolate, and protect the common bile duct and other structures, the Defendant Vaidyanathan negligently traumatized and damaged the common bile duct. Specifically, it is asserted that the Defendant Vaidyanathan negligently clipped and transected completely the Claimant's common bile duct. Had the Defendant Vaidyanathan, performed the surgery in conformity appropriate standards of care, he would have taken appropriate steps and identified the common duct and other anatomical landmarks, and protected the common duct during the course of the surgery, and the Claimant would have been

returned to her hospital room in a stable and appropriate condition. Instead, because of the negligence of the Defendant Vaidyanathan, and resulting injury to the common duct, the Claimant was returned to her hospital room in a severely injured and debilitated condition.

9. Following the completion of the laparoscopic cholecystectomy, the Claimant was discharged to home, with instructions to return to the Defendant Vaidyanathan for follow-up visit in two weeks. As instructed, the Claimant presented to the Defendant Vaidyanathan for her postoperative follow-up, at which time she had recent onset of complaints of itchiness, nausea and bloating. The Defendant Vaidyanathan made a diagnosis of jaundice, and referred the Claimant to Gaurav Jain, M.D., a gastroenterologist, for evaluation.

10. As instructed, the Claimant presented to Dr. Jain on the same day as she had earlier presented to the Defendant, October 23, 2006. Dr. Jain performed an ERCP test, conducted at Christiana Hospital. As a result of the ERCP, three surgical clips were seen transecting the common bile duct, and there was absolutely no filling of the intrahepatic ducts more proximal to these clips. These facts were confirmed with the attending radiologist, and a complete transection of the common bile duct was diagnosed as of that time.

11. The Claimant was referred back to the Defendant Vaidyanathan as a consequence of the diagnosis of the completely transected common bile duct, for further treatment and care. The Claimant was advised by the Defendant Vaidyanathan that the transected common bile duct required surgical repair, and that the Defendant Vaidyanathan was competent to perform such surgery. The Defendant Vaidyanathan further advised the Claimant that he, himself, had to repair this injury. Consequently, as instructed by the Defendant, the Claimant presented to the Union Hospital on October 27, 2006 for surgical repair of the transected common bile duct. It is asserted that at this time, the Defendant Vaidyanathan elected to undertake and perform a Roux-

en-Y hepaticojejunostomy, an intricate and complex surgical procedure, in an effort to restore normal biliary function to the Claimant.

12. At the time of the surgery on October 27, 2006 performed by the Defendant Vaidyanathan, the common hepatic duct was found to be clipped right across the common hepatic, with three clips, which clips were removed by the Defendant Vaidyanathan during the Roux-en-Y surgery of October 27, 2006. It is asserted that the operative procedure performed by the Defendant Vaidyanathan as of this time was a very significant, lengthy and complicated procedure, and one which resulted in additional scar tissue as well as ongoing physical pain, emotional anguish, fear and anxiety.

13. It is asserted that the Claimant has in the past, is presently, and will in the future continue to suffer physical pain, emotional anguish, fear and anxiety over her condition. She has been left with serious and permanent disability, and currently requires and will in the future require medical, surgical, physiotherapeutic and other care, to monitor and treat her condition which was negligently caused to occur.

14. Additionally, the Claimant has in the past, is presently, and will in the future continue to incur significant hospital, surgical, pharmacological, physiotherapeutic and other losses and expenses for which claim is made. She has lost her former state of emotional and physical well-being, and has lost her ability to seek and hold gainful employment as a result of the negligence of the Defendant. Since the surgery performed on October 27, 2006, the Claimant faces the prospect of additional hospitalizations and other treatment and care, all as a result of the negligence of the Defendant, for which claim is made.

15. The Claimant refers to the negligence of the Defendants and each of them as the sole and proximate cause of all of the injuries, damages and permanent disability inflicted upon the Claimant – with the Claimant being in no way contributorily negligent.

16. The negligence complained of occurred in Cecil County. Venue is claimed in Cecil County. The amount in controversy exceeds Thirty Thousand Dollars ($30.000.00).

COUNT II

COME NOW the Claimants, LINDA M. DuBOIS and KENNETH DuBOIS, by their attorneys,

and sue PRAKASH VAIDYANATHAN, M.D., and TRI-STATE SURGICAL ASSOCIATES, LLC, Defendants, and state as follows:

1. The Claimants incorporate in this Count those facts set forth in Count I hereinabove by reference thereto intending that each and every allegation hereinabove be deemed a part hereof as if the same were repeated herein.

2. The Claimants allege that they are husband and wife. As the result of the negligence of the Defendants, the Claimants assert that their marriage and marital relationship was interrupted and continues to be interrupted.

3. The severe, unremitting pain from which the Claimant Linda M. DuBois suffers as well as the permanent disability sustained as a result of the negligence of the Defendants, has permanently interrupted and damaged the Claimants' marriage and the Claimant Linda M. DuBois' ability to function as a normal wife.

4. The negligence complained of occurred in Cecil County, where venue was claimed. The amount in controversy exceeds Thirty Thousand Dollars ($30,000.00).