

IN THE HEALTH CLAIMS ALTERNATIVE DISPUTE RESOLUTION OFFICE

SHERRYN L HOLTZCLAW, Individually
and as Personal Representative of the
ESTATE OF LILY MAY FILBEY
420 Sweet Leaf Lane
Maylene, AL 35114

and

KIMBERLEIGH D. MEYER
1134 Georgetown Road
Little Town, PA 17340

and

WALTER SCOTT FILBEY
P.O. Box 796
Perryville, MD 21903

Claimants

v.

HARFORD MEMORIAL HOSPITAL
501 South Union Avenue
Havre de Grace, MD 21078
SERVE ON:
Resagent, Inc.
Seven Saint Paul Street – Suite 1400
Baltimore, MD 21202

and

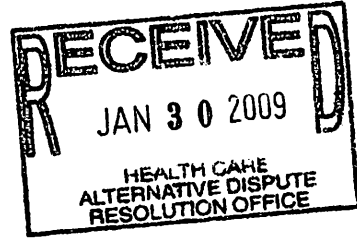
MUHAMMAD JOKHADAR, M.D.
500 Upper Chesapeake Drive
Bel Air, MD 21014

and

THOMAS A. BIONDO, M.D.
319 S. Union Avenue
Havre de Grace, MD 21078

Health Care Providers

* * * * *



2009-045

HCADRO No.:

STATEMENT OF CLAIM

Claimants, Sherryn L. Holtzclaw, Individually and as Personal Representative of the Estate of Lily May Filbey, Kimberleigh D. Meyer and Walter Scott Filbey, bring this action against the Health Care Providers, Harford Memorial Hospital, Muhammad Jokhadar, M.D., Thomas A. Biondo, M.D. (collectively, "The Health Care Providers") and for cause state:

1. The amount of this claim greatly exceeds the limits of the concurrent jurisdiction of the District Court of Maryland (\$25,000.00), and the venue for this claim is proper in Harford County, Maryland.

2. At all times relevant hereto, Lily May Filbey was the mother of Sherryn L. Holtzclaw, Kimberleigh D. Meyer, and Walter Scott Filbey. Lily May Filbey died on June 24, 2006. Sherryn L. Holtzclaw is the Personal Representative of the Estate of Lily May Filbey which was opened by the Register of Wills for Cecil County.

3. At all times relevant hereto, Harford Memorial Hospital was a health care organization that held itself out as a competent medical organization, which would provide and supervise competent and qualified medical personnel who would properly monitor, attend to, diagnose, refer, consult upon and render correct, proper and adequate medical care and treatment to those patients who might submit to its care and treatment.

4. At all times relevant hereto, Muhammad Jokhadar, M.D., was a duly licensed physician functioning as an agent and/or employee of Harford Memorial Hospital functioning within the scope of his employment, holding himself out to the general public as a competent and skillful physician and as an individual who would

properly monitor, attend to, examine, diagnose, treat, refer, consult upon and administer to patients who might submit to his care and professional treatment.

5. At all times relevant hereto, Thomas A. Biondo, M.D., was a duly licensed physician functioning as an agent and/or employee of Harford Memorial Hospital functioning within the scope of his employment, holding himself out to the general public as a competent and skillful physician and as an individual who would properly monitor, attend to, examine, diagnose, treat, refer, consult upon and administer to patients who might submit to his care and professional treatment.

6. At times relevant hereto, Lily May Filbey was a patient of each of the named Health Care Providers, who each were therefore under a duty to provide proper, adequate, timely, and acceptable medical care and treatment to him.

7. On or about June 8, 2006, Lily May Filbey presented to Harford Memorial Hospital for treatment of a bacteremia. At the time of her admission, as documented in the medical chart, Mrs. Filbey stumbled and almost fell. Mrs. Filbey's risk of falling was assessed by the medical staff at Harford Memorial Hospital, and she was determined to be a moderate fall risk, requiring supervision and assistance for her toileting needs.

8. Between June 8, 2006 and June 21, 2006, Mrs. Filbey received continuous doses of Percocet and intravenous Morphine to control her pain. On the morning of June 21, 2006, Mrs. Filbey received a Fentanyl patch for further pain control. Nevertheless, she continued to receive intravenous Morphine on a regular and continuous basis.

9. On the afternoon of June 23, 2006, while still under the effects of the Fentanyl patch and the intravenous Morphine, Mrs. Filbey also received a dose of Ativan to treat her anxiety associated with a scheduled MRI of her lower back.

10. Despite the high doses of opiates and benzodiazepines prescribed for Mrs. Filbey, the expected delirium that would result from these medications, and her history of having almost fallen at admission, neither the prescribing physicians nor the attending nursing staff re-assessed Mrs. Filbey's fall risk. As a result, she was maintained as a moderate risk to fall.

11. After the administration of Ativan on June 23, 2006, Mrs. Filbey's level of consciousness diminished. She was clearly "groggy," less conversant, and less coherent. Despite the circumstances described in Paragraph 10 herein, and the demonstrable change in her level of consciousness, neither the prescribing physicians nor the attending nursing staff re-assessed Mrs. Filbey's fall risk. Alternatively, if the attending medical staff re-assessed Mrs. Filbey's fall risk after administration of Ativan, they failed to properly do so to account for the medications she had received and her objectively apparent diminished level of consciousness. In either event, Mrs. Filbey was maintained as a moderate fall risk.

12. At approximately 4:50 p.m. on June 23, 2006, a nursing tech assisted Mrs. Filbey to a bedside commode, left her unattended with a call button, and reported that she had done so to Lori Vacek, R.N.

13. At approximately 5:45 p.m., almost an entire hour after she was left unattended on the bedside commode, hospital staff found Mrs. Filbey on the floor next to the commode, bleeding from the left side of her head.

14. The Health Care Providers acting directly and through their agents negligently deviated from the generally accepted standards of care by failing to adequately evaluate the patient, failing to recognize that she was at a high risk of falling, failing to provide appropriate medical orders and safety precautions in recognition of her high risk of falling, failing to properly supervise her use of the bedside commode, allowing Mrs. Filbey to remain on the commode for upwards of an hour without any supervision or interaction from the medical or hospital staff, and allowing her to fall and strike her head.

15. As a result of the negligence of the named Health Care Providers, Mrs. Filbey was allowed to fall, strike her head, and suffer grievous injuries, including, but not limited to a right posterior subdural hematoma, and she ultimately died.

COUNT I
(Survival Action – Estate of Lily May Filbey)

16. All preceding paragraphs are incorporated herein by reference.

17. As a direct and proximate result of the negligence and deviations from the standards of care by the named Health Care Providers acting directly and through their agents and employees, Mrs. Filbey was caused to suffer physical and emotional pain as well as the tragic and unnecessary loss of her life.

18. The injuries, damages, and losses claimed were and are due solely to the medical negligence, carelessness and unskillfulness of the named Health Care Providers, who did not conduct themselves in a competent and skillful manner, and who failed to exercise the degree of skill and care necessary under the circumstances, and who departed from generally accepted medical and surgical practices and procedures, and who were

otherwise careless, reckless, and negligent without any negligence on the part of the Claimants contributing thereto.

WHEREFORE, the Claimant, the Estate of Lily May Filbey, by Sherryn L. Holtzclaw as the Personal Representative of the Estate, demands judgment against the named Health Care Providers in an amount in excess of the concurrent jurisdictional amount of the District Court.

COUNT II
(Wrongful Death Action)

19. All preceding paragraphs are incorporated herein by reference.

20. At all relevant time hereto, Claimants, Sherryn L. Holtzclaw, Kimberleigh D. Meyer, and Walter Scott Filbey, were the natural children of the decedent, Lily May Filbey.

21. As a direct and proximate result of the negligence and deviations from the standards of care by the named Health Care Providers, acting directly and through their agents and employees, Mrs. Holtzclaw, Mrs. Meyer, and Mr. Filbey have been caused to experience and will continue to experience extreme mental anguish, emotional pain and suffering, loss of society, loss of companionship, loss of comfort, loss of protection, loss of attention, loss of advice, loss of counsel, loss of pecuniary benefit and loss of love resulting from the tragic and unnecessary premature death of their mother, Lily May Filbey.

22. All of the Claimant's injuries, damages, and losses claimed herein are due solely to the medical negligence, carelessness, and unskillfulness of the named Health Care Providers who did not conduct themselves in a competent and skillful manner, and who failed to exercise the degree of skill and care necessary under the circumstances, and

who departed from generally accepted medical practices and procedures, and who were otherwise careless, reckless, and negligent, without any negligence on the part of any of the Claimants contributing thereto.

WHEREFORE, the Claimants demand judgment against the named Health Care Providers in an amount in excess of the concurrent jurisdictional amount of the District Court.