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HEALTH CARE
ALTERNATIVE DISPUTE
RESOLUTION OFFICE

CHERYL Y. RICHARDSON and KEITH F. RICHARDSON 4703 Truffle Lane Owings Mills, Maryland 21117	*	BEFORE THE HEALTH CARE ALTERNATIVE DISPUTE RESOLUTION OFFICE OF MARYLAND
Claimants,	*	
	*	
v.	*	HCA No.: 2009·049
AARON RABINOVICH, M.D. 203 Hospital Drive, Suite 200 Glen Burnie, Maryland 21061	*	
Serve On: AARON RABINOVICH, M.D. 2401 West Belvedere Avenue Baltimore, Maryland 21215	*	
And	*	
SINAI HOSPITAL OF BALTIMORE, INC. 2401 West Belvedere Avenue Baltimore, Maryland 21215	*	
Serve On Resident Agent: JOEL I. SULDAN 2401 West Belvedere Avenue Baltimore, Maryland 21215	*	
Defendant/Healthcare Providers.		

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STATEMENT OF CLAIM

The Claimants, Cheryl Y. Richardson and her husband Keith F. Richardson, by and through their attorneys,

sue Defendant Healthcare Providers, AARON RABINOVICH, M.D., and SINAI HOSPITAL OF BALTIMORE, INC. and allege as follows:

THE PARTIES

1. Claimants, Cheryl Y. Richardson (hereinafter "Mrs. Richardson") and her husband Keith Richardson are residents of Baltimore County Maryland.

2. Defendant/Healthcare Provider, Dr. Aaron Rabinovich (hereinafter "Dr. Rabinovich") is a citizen of the State of Maryland, who currently and at all times complained of herein was and is licensed to practice general surgery in the State of Maryland and who does business and derives revenue therefrom in Baltimore City, Maryland, among other venues.

3. Defendant/Healthcare Provider, Sinai Hospital of Baltimore, Inc. (hereinafter "Sinai Hospital") is a corporation organized under the laws of the State of Maryland. At all times relevant hereto, Dr. Rabinovich was an agent, servant, and/or employee of Sinai Hospital which does business and derives revenue therefrom in Baltimore City, Maryland and other venues.

4. At all relevant times Sinai Hospital is and was responsible for the actions and omissions of all of its employees, agents and/or representatives, including without limitation Dr. Rabinovich, under the doctrines of *respondeat superior* and/or actual and/or apparent agency.

JURISDICTION AND VENUE

5. The amount in controversy exceeds the minimum jurisdictional amount of the Circuit Court for Baltimore City and venue is proper in Baltimore City, Maryland as the forum in which Defendant Healthcare Providers regularly conduct business and/or derive revenue therefrom and as the location where the causes of action arose.

STATEMENT OF FACTS AS TO ALL CLAIMS

6. Claimant, Mrs. Richardson, was a then forty nine year old woman who is married

to Keith F. Richardson. Mr. and Mrs. Richardson have three minor children. At all relevant times they resided at 4703 Truffle Lane, Owings Mills, Baltimore County, Maryland 21117. Mrs. Richardson at the time of the incident was employed by the United States Internal Revenue Service as a Revenue Agent (GS 13, Step 7).

7. Mrs. Richardson was Dr. Rabinovich's patient from at least May 16, 2007 (the date of Mrs, Richardson's initial presentation to Sinai Hospital) to August 2, 2007 and she was under his care during that time for treatment of, initially, acute cholecystitis and thereafter other injuries and conditions as a result of Dr. Rabinovich's treatment of Mrs. Richardson's acute cholecystitis.

8. On May 16, 2007, Claimant, Mrs. Richardson presented to the Sinai Hospital of Baltimore Emergency Room complaining of mid epigastric pain radiating to the left side of her chest for the past twenty-four hours. She had been awake throughout the night vomiting.

9. An abdominal ultrasound was performed which revealed the presence of gall stones. A nuclear medicine biliary scan was performed which demonstrated non-visualization of the gallbladder with obstruction of the cystic duct which is suggestive of acute cholecystitis.

10. Defendant Health Care Provider, Dr. Rabinovich, admitted Mrs. Richardson to Sinai Hospital and he performed a Laparoscopic Cholecystectomy and a Repair of umbilical hernia with Mrs. Richardson in a supine position under general anesthesia. Dr. Rabiniovich gained entry through a cut-down at the umbilicus through a small umbilical hernia, through which he inserted a Optiview cannula. Dr. Rabinivich then went on to establish a pneumoperitoneum and proceeded to place other appropriate trocars and cathetars. The operative report notes no encountering of adhesions or any other adhesions or anatomic abnormalities.

Claimant's postoperative diagnosis was Laparoscopic cholecystectomy and Umbilical hernia.

11. Claimant, Mrs. Richardson was kept overnight for observation and was discharged from Sinai Hospital on May 17, 2007.

12. On May 21, 2007, Mrs. Richardson presented to Dr. Rabinovich's office having experienced food intolerance, nausea, and worsening abdominal pain. Additionally, purulent fecal-smelling material was draining from her umbilical incision.

13. After evaluation, Dr. Rabinovich himself transferred Mrs. Richardson to the Sinai Hospital Emergency Department where she began to experience worsening abdominal pain and signs of peritonitis. An abdominal CAT sacn was performed which showed the presence of fluid in the abdominal cavity and the findings suggested the occurrence of a perforation rather than a bile duct leak. Additionally, Claimant's white blood cell count was elevated. Mrs. Richardson was admitted to Sinai Hospital to Dr. Rabinovich's service.

14. Dr. Rabinovich recommended that an exploratory laparotomy be performed. Mrs. Richardson's preoperative diagnosis was a bile duct injury. Mrs. Richardson was placed in a supine position and placed under general anesthesia. Dr. Rabinovich performed an exploratory laparotomy, abdominal washout, irrigation, and small bowel resection with primary anastamosis. During the procedure it was realized that there was a "small enterotomy with an already maturing small bowel fistula on the intermesenteric aspect of the distal ileum." The perforation in the distal ileum was measured to be 1.7 cm x 1.5 cm. This perforation had resulted in the leakage of intra-bowel contents into the peritoneal cavity resulting in peritonitis and sepsis. As a result of this finding the abdomen was irrigated.

15. Mrs. Richardson's post operative diagnosis was distal ileal enterotomy.

16. A portion of Mrs. Richardson's bowel measuring 5.5 cm in length and 2.5 cm in diameter was collected by Dr. Rabinovich during the exploratory laparotomy and it was sent to the Sinai Hospital Pathology Department for examination.

17. Upon examination by Dr. Nuckols at the Sinai Hospital Pathology Department determined that the bowel specimen contained a 1.7 x 1.5 cm perforation located approximately in the center of the specimen. Further, Dr. Nuckols determined that the perforation was located 7 cm. from the nearest stapled margin.

18. On May 23, 2007, postoperative day two, Mrs. Richardson's white blood cell count began to elevate. On May 26, 2007, Claimant developed leukocytosis with her white blood cell count increasing to 20,000.

19. As a result, a CAT scan was performed which showed left subphrenic and perisplenic fluid collection. In response, Mrs. Richardson was sent to the interventional radiology department for guided placement of a 12-French pigtail drain of the left subphrenic abscess which aspirated 150 mL of fluid. After the surgery, Mrs. Richardson was covered with Cipro and Zosyn for infection control.

20. On June 1, 2007, Mrs. Richardson's white blood cell count had decreased to 12,000. Following another CAT scan showing minimal fluid collection on the left subphrenic area a decision was made to discontinue the left subphrenic drainage.

21. In order to attempt to control Mrs. Richardson's wound infection, iodoform packing was used to further drain fluid from her wound. A wound vac was used for three days to decrease drainage and increase healing.

22. Additionally, on June 2, 2007, Mrs. Richardson's creatine level had risen to 3.18

possibly due to multiple CAT contrast injection induced acute renal failure. A nephrologist consult was obtained. Mrs. Richardson was prescribed Lasix 40 mg daily for five days and advised to drink more fluids. Also on June 2, 2007, Mrs. Richardson's hemocrit level was 24.6. As a result she was given a two unit red blood cell transfusion.

23. On June 3, 2007, Mrs. Richardson developed shortness of breath a further complication of the distal ileal enterotomy. Upon examination it was determined that Claimant had decreased breath sounds on her left base and a CAT scan showed a left pleural effusion. As a result, Mrs. Richardson was again taken to interventional radiology for drainage of the affected area.

24. Mrs. Richardson was finally discharged from Sinai Hospital on June 5, 2007, with instructions to call Dr. Rabinovich in two weeks for a post operative evaluation. Additionally, Claimant was instructed to take 300 mg of ferrous sulfate once a day to treat anemia, Cipro 400 mg once a day for seven days to treat infection, metoprolol 50 mg twice a day, Percocet 5/325 one to two tablets a day every four hours for pain as needed, Flexeril 5 mg three times a day as a muscle relaxant, and Colace 100 mg twice a day for constipation.

25. Mrs. Richardson was discharged while still experiencing shortness of breath and with a partial open wound and wound infection which required treatment at home by use of a vac dressing requiring daily dressing changes from a home nurse from June 5 - June 20, 2007. Home health care was required to assist in wet to dry dressing changes.

26. The Sinai Hospital "Diagnosis and Procedure Worksheet" lists as the principle diagnosis for Mrs. Richardson's hospital stay from May 21- June 5, 2007 as ICD 9 Code 998.2 - Accidental Puncture or Laceration During Operative Procedure.

27. On June 14, 2007, Mrs. Richardson was seen at the Sinai Hospital Department of Surgery, Thoracic Division by Dr. Lynne A. Skaryak. Dr. Skaryak notes in her report that Mrs. Richardson ". . . underwent laparoscopic cholecystectomy several weeks ago complicated by ileal perforation, which required washout and small bowel resection. Postoperatively, the patient developed a left upper quadrant abscess, which was percutaneously drained, and a sympathetic left pleural effusion. Prior to discharge the patient underwent thoracentesis."

28. On June 28, 2007, Mrs. Richardson was seen by Dr. Rabinovich and Dr. Skaryak Dr. Skaryak notes that Mrs. Richardson's chest x-ray shows a small area at the costophrenic angle and that her shortness of breath is still resolving.

29. On August 2, 2007, Mrs. Richardson was seen by Dr. Rabinovich, who notes in his report dated August 9, 2007 that Mrs. Richardson, "had a slow course to recover with a problem of a sub-diaphragmatic abscess on the left side as well as a left sided pleural effusion and non-oliguric renal failure." Dr. Rabinovich further notes that Mrs. Richardson is still experiencing incisional pain when she lifts heavy boxes, particularly weighing more than 25 lbs.

30. Mrs. Richardson as a result of the above described medical care was unable to work from May 16, 2007 to July 8, 2007 and from July 8, 2007 to July 21, 2007 she was only able to work half-days. She remains symptomatic and still experiences incisional pain and cannot lift any object of appreciable weight.

COUNT I - MEDICAL NEGLIGENCE

31. Claimant, Mrs. Richardson, adopts and incorporates by reference the allegations of fact, duty and negligence herein above set forth in all previous paragraphs and makes the same

a part hereof as if fully recited herein, and adds thereto:

32. As a direct and proximate cause of Defendant Healthcare Providers' negligence and breaches of the standards of care owed to Mrs. Richardson, individually and/or through their agents, servants and/or employees, Mrs. Richardson experienced and continues to experience significant pain, suffering and permanent disability.

33. At all relevant times, Defendant Healthcare Provider, Dr. Rabinovich was licensed to practice medicine in the State of Maryland and represented to the public and to Claimant, Mrs. Richardson, possession of that degree of skill, knowledge and ability ordinarily possessed by a reasonably competent general surgeon.

34. At all relevant times, Defendant Healthcare Provider, Sinai Hospital, through its' agents, servants and/or employees, including without limitation, Dr. Rabinovich, was providing medical services in the State of Maryland, including Baltimore City, Maryland, and, through its agents, servants and/or employees, members and/or principals represented to the public and to Claimant, Mrs. Richardson, possession of that degree of skill, knowledge and ability ordinarily possessed by a reasonably competent medical hospital delivering general surgical care.

35. Defendant Healthcare Provider, Dr. Rabinovich, owed Claimant, Mrs. Richardson, the duty to exercise the degree of care, skill and judgment ordinarily expected of a reasonably competent general surgeon acting in the same or similar circumstances. That duty included properly examining, monitoring, diagnosing, treating or referring for treatment Claimant. More specifically, that duty included, but was not limited to, performing a Laproscopic cholecystitis and repair of umbilical hernia without injuring Mrs. Richardson's distal ileum and to recognize such injury, if it occurred, where a reasonably competent general

surgeon would have performed the surgery without injuring the distal ileum, but if the distal ileum was injured, by at least recognizing the injury had occurred at that time and repairing it without further complication.

36. Defendant Healthcare Provider Dr. Rabinovich, individually and/or through his agents, servants and/or employees and/or Sinai Hospital and their agents, servants and/or employees, was negligent and breached the accepted standards of care and their duty by and among other reasons:

a. by injuring Mrs. Richardson's distal ileum during the performance of the laproscopic cholecystectomy;

b. by failing to recognize during surgery and before discharge that Mrs. Richardson's distal ileum was perforated;

c. by causing Claimant peritonitis and resultant complications;

d. by causing enteric contents to come out of Claimant's wound;

e. by causing Claimant to have additional surgeries and other invasive procedures and suffer a prolonged hospital stay; and

f. by causing Claimant to experience and continue to experience a decreased appetite, rapid heart rate, worsening bloating, shortness of breath, incisional pain, and a overall dimunition in her quality of life.

37. Defendant Healthcare Providers' negligence and breaches of the standards of care were direct and proximate causes of Mrs. Richardson's injuries, permanent injuries, emotional pain and suffering, lost wages and other damages resulting therefrom, with no indication of contributory negligence on the part of Mrs. Richardson contributing thereto.

WHEREFORE, this claim is brought, and the amount in controversy exceeds the statutory limit of the minimum jurisdiction of the Circuit Court for Baltimore City, together with their reasonable costs, expenses and such other and further relief as justice requires.

COUNT II - LOSS OF CONSORTIUM

38. Claimants, Mr. and Mrs. Richardson, adopt and incorporate by reference the allegations of fact, duty and negligence herein above set forth in all previous paragraphs and makes the same a part hereof as if fully recited herein, and adds thereto:

39. The Claimants are married and have been married for eighteen years. Together they have three minor children, Kristina, Keri and Keith.

40. As a result of the negligence of the Defendant Health Care Providers, the Claimants' marriage has been injured and damaged, and each of them, the Claimants were caused to suffer, and will continue to suffer in the future, loss of consortium, loss of society, affection, assistance, and conjugal fellowship, all to the detriment of their marital relationship and that Claimants claim all available damage under Maryland's loss of consortium law.

WHEREFORE, this claim is brought, and the amount in controversy exceeds the statutory limit of the minimum jurisdiction of the Circuit Court for Baltimore City, together with their reasonable costs, expenses and such other and further relief as justice requires.