

LINDA RISSO
13352 Cove Landing Road
Bishopville, MD 21813

AND

DONALD RISSO
13352 Cove Landing Road
Bishopville, MD 21813

Claimants,

v.

ATLANTIC GENERAL HOSPITAL
CORPORATION d/b/a ATLANTIC
GENERAL HOSPITAL,
9733 Healthway Drive
Berlin, Maryland 21811

SERVE ON:
Stephen B. Awalt, Esquire
1104 Kenilworth Drive, Suite 400
Towson, MD 21204

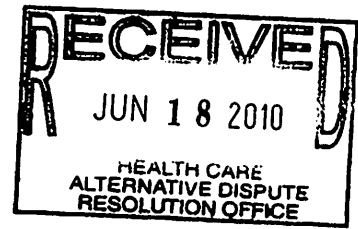
AND

THUAN D. DANG, M.D.
29 Broad Street, Suite 201
Berlin, Maryland 21811

AND

THUAN D. DANG, MD., LLC
29 Broad Street, Suite 201
Berlin, Maryland 21811

SERVE ON:
Registered Agent
Thomas Coates
6200 Coastal Hwy Ste 300
Ocean City, MD 21842



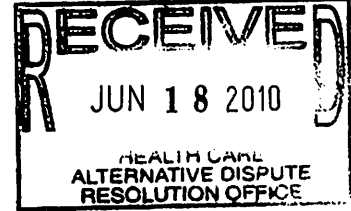
IN THE MARYLAND
HEALTH CARE
ALTERNATIVE DISPUTE
RESOLUTION OFFICE

Claim No. 2010-173

AND

ATLANTIC SURGICAL
ASSOCIATES, LLC
PO Box 339
314 Franklin Ave Ste 304
Berlin, MD 21811

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SERVE ON:
Registered Agent
Joseph Moore, Esquire
3509 Coastal Highway
Ocean City, MD 21842

Health Care Providers

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FIRST AMENDED STATEMENT OF CLAIM

Claimants, Linda and Donald Risso, by their attorneys,

hereby sue The Atlantic General Hospital, Thuan D. Dang
M.D., Thuan D. Dang, M.D., LLC and Atlantic Surgical Associates, LLC and for cause,
Claimants state the following:

INTRODUCTION

1. This is a medical malpractice action arising from the negligent care rendered to Linda Risso ("Ms. Risso") by Thuan D. Dang M.D ("Dr. Dang"), acting individually and/or as agent(s), servant(s) and/or employee(s) and within the scope of his agency, service and/or employment of Health Care Providers Atlantic General Hospital Corporation d/b/a Atlantic General Hospital ("Atlantic General"), and/or Thuan D. Dang, M.D LLC ("Dr. Dang, LLC"), and/or Atlantic Surgical Associates, LLC ("Surgical Associates") involving treatment for unnecessary and unwarranted surgical procedures starting with 4/4/07 after Ms. Risso presented

for evaluation of symptomatic gallbladder disease and also for evaluation for a symptomatic abdominal wall hernia located at the site of her permanent ileostomy. Dr. Dang individually and/or as agent(s), servant(s) and/or employee(s) and within the scope of his agency, service and/or employment of above referenced Health Care Providers negligently failed to properly treat Ms. Risso's condition as required by the accepted standards of care and failed to provide proper management of her condition as required by the accepted standards of care. Ms. Risso's condition has only been worsened by the actions of the Health Care Providers, which have subjected her to numerous surgical procedures and have caused her to experience extensive pain and suffering in conjunction with severe stress and anxiety, extensive medical bills and loss of consortium, arising from the deterioration of her health.

JURISDICTION AND VENUE

2. Venue as to all claims is appropriate in Worcester County pursuant to MD. CODE ANN., CTS. & JUD. PROC. § 6-201, *et seq.*, inasmuch as: (a) the principal offices and resident agents of Atlantic General Hospital, Dr. Dang LLC and Surgical Associates are located in Berlin, Maryland in Worcester County and regularly carry on business, are employed and/or are habitually engaged in a vocation in Worcester County; and/or (b) a cause of action arose in Worcester County, in that the injuries proximately caused by the alleged negligence of at least two of the named Health Care Providers occurred at their medical facility, located in Worcester County.

3. Damages are in excess of the required jurisdictional amount under MD.CODE, CTS. & JUD. PROC. § 3-2A-02.

THE PARTIES

4. At all times pertinent hereto, Ms. Risso was a citizen and resident of Worcester County, Maryland.

5. At all times pertinent hereto, Donald Risso ("Mr. Risso") was a citizen and resident of Worcester County, Maryland.

6. At all times pertinent hereto, Health Care Provider Atlantic General, as a professional services corporation organized and existing under and by virtue of the laws of the State of Maryland, held itself out to the public as competent to provide medical care and treatment, including, but not limited to, emergency medical care, surgical and post-operative care following surgical procedures, and indeed did provide medical care and treatment to Ms. Risso, through its actual and/or apparent agents, servants and/or employees, including but not limited to its nurses, residents, attending physicians and others, including but not limited to Dr. Dang, who at all times acted within the scope of his authority.

7. At all times pertinent hereto, Health Care Providers Dr. Dang, LLC and/or Surgical Associates as a professional services corporation organized and existing under and by virtue of the laws of the State of Maryland, held themselves out to the public as competent to provide medical care and treatment, including, but not limited to, emergency medical care, surgical and post-operative care following surgical procedures, and indeed did provide medical care and treatment to Ms. Risso, through their actual and/or apparent agents, servants and/or employees, including but not limited to Dr. Dang who at all times acted within the scope of his authority.

8. At all times pertinent hereto, Health Care Provider Dr. Dang was licensed to

practice medicine in the State of Maryland, and held himself out as a health care provider that possessed that degree of skill, care, expertise, knowledge and ability ordinarily possessed by reasonably prudent and competent like Health Care Providers. At all times relevant in rendering care to Ms. Risso, Dr. Dang acted within the scope of his authority individually, and as an actual and/or apparent agent, servant and/or employee of Atlantic General, and/or Dr. Dang LLC, and/or Surgical Associates.

9. At all times pertinent hereto, Ms. Risso was a patient of Atlantic General, Dr. Dang Dr. Dang, LLC and/or Surgical Associates for the purpose of receiving medical care and treatment.

FACTUAL BACKGROUND

10. Ms. Risso presented to Dr. Dang in March 2007 for evaluation of symptomatic gallbladder disease and also for evaluation of a symptomatic abdominal wall hernia located at the site of her permanent ileostomy.

11. On March 20, 2007, a pre-operative consultation was performed in Dr. Dang's office. The records indicate that Dr. Dang planned laparoscopic repair.

12. Ms. Risso's past medical history was notable for chronic obstructive pulmonary disease (COPD), and ulcerative colitis, a rare inflammatory disease of the colon.

13. Ms. Risso had previously undergone a subtotal colectomy, a proctocolectomy, and a hysterectomy. She had a permanent ileostomy exiting through her abdominal wall on the right side. Given this history, laparoscopic completion of surgery was doubtful, and bowel injury and laparotomy were likely. The extent and danger of these risks were never fully explained to Ms. Risso. Had this all been explained to Ms. Risso, she would not have consented

to this surgery.

14. On April 4, 2007, Ms. Risso was admitted to Atlantic General Hospital under the care of Dr. Dang with plans to perform a laparoscopic cholecystectomy and laparoscopic repair of the hernia at the same setting.

15. After two unsuccessful attempts to access the abdomen with a laparoscopic trocar the laparoscopic procedure was converted to an open procedure known as an exploratory laparotomy. Dr. Dang encountered “dense adhesions” and spent five (5) hours performing an extensive lysis of adhesions. During the procedure, Dr. Dang made an enterotomy in the mid-jejunum and injured the serosa of the intestine in at least two other locations. According to Dr. Dang’s notes, the enterotomy and the two serosal tears were repaired primarily using sutures. The lysis of adhesions was completed, the parastomal hernia repaired using a biological mesh, and the operative procedure was terminated.

16. After 5 hours of surgery, Ms. Risso had a slow recovery. Postoperatively, Ms Risso experienced a difficult recovery, suffering from nausea, vomiting and persistent, severe abdominal pain. Despite her prolonged and unexpected postoperative course, she appears to have stabilized and was discharged home on April 12, 2007.

17. On May 25, 2007 she presented to the emergency room at Atlantic General Hospital with complaints of severe abdominal pain and the presence of yellowish and brownish drainage oozing from her prior surgical incision. The timing and nature of her presentation was indicative of and typical for an enteric fistula, as was confirmed by the CT scan done that same day. She was clinically otherwise stable.

18. Having diagnosed the fistula, the standard of care requires a surgeon to follow

established protocols for the management of enteric fistulas. Emergent surgery is not usually required or advisable, as in this case. All patients should be resuscitated and stabilized with the administration of intravenous fluids, followed by prompt drainage of any abscesses and fluid collections within the abdominal cavity. Early percutaneous drainage of intra-abdominal abscesses and control of ongoing fistula drainage should be the primary management goal. This will provide the patient with the best hope for an acceptable outcome.

19. Abscess drainage is best accomplished by the placement of drains into the abdomen under CT or ultrasound guidance. In this case, surgery was not needed or advisable to accomplish this task and should have been avoided. Antibiotics should be given where indicated to control infection. Failure to place appropriate intra-abdominal drains will lead to uncontrolled leakage of intestinal contents, worsening sepsis and the formation of additional abscesses and fistulas.

20. Once the patient has been stabilized and sepsis controlled, adequate nutritional support in the form of parenteral and/or enteral feedings should be instituted. The provision of adequate nutritional support is another crucial aspect to the management of a patient presenting with an enteric fistula. Unless the patient's nutritional status improves, the fistula will not heal and the patient's prognosis worsens. A detailed and ongoing assessment of the patient's nutritional status by personnel experienced with the management of these complex and nutritionally deprived patients is needed. Specialized tests and ongoing assessments should be conducted to track the patient's nutritional recovery. Repeat surgery should not be undertaken until the patient's nutritional status has normalized or significantly improved. Any operation conducted in the presence of an existing fistula and inadequate nutritional status is doomed to failure.

21. Dr. Dang improperly elected to take Ms. Risso to surgery on May 25, 2007, contrary to the standard of care and then attempted a primary suture repair of the opening in the bowel. The report states in part “A large collection of enteric contents was identified. This was irrigated and drained.” Yet, no drains were placed at the time of surgery and the small intestine was not fully inspected before the abdomen was closed.

22. It is also notable that no attempts were made to (1) perform a contrast x-ray study of the fistula or other areas of the small intestine during the surgical procedure, (2) place a feeding gastrostomy, jejunostomy or gastro-jejunostomy tube, or (3) place a catheter into the fistula itself so as to help control its drainage. It is unclear whether Ms. Risso’s abdominal wall musculature was closed. This important information is missing from the operative report.

23. No bowel resection around the fistula appears to have been done. This repair was unsuccessful, and broke down. Predictably, Ms. Risso’s condition did not improve and Dr. Dang again took Ms. Risso back to surgery, again without further interventions, on May 30, 2007, again contrary to the standard of care. At the time of the operation on May 30, 2007, Dr. Dang confirmed that the fistula was now “massively enlarged”, yet he still failed to place any intraabdominal drains that might help control the drainage from the fistula. Again, Dr. Dang failed to perform any diagnostic x-ray studies or place any nutritional catheters into the gastrointestinal tract. Ms. Risso’s abdominal wall remained open at this point.

24. During the next several weeks, Ms. Risso’s condition failed to improve in a meaningful manner. She manifested persistent episodes of nausea and vomiting, severe abdominal pain, fluid retention, large amounts of fistulous drainage, minimal output from her ileostomy, and deteriorating nutritional status. In fact, on June 3, 2007, Ms. Risso herself asked,

“Am I going to die?”

25. On June 7, 2007 despite any acknowledgment of the presence of any intra-abdominal drains, Dr. Dang wrongly concluded that the infectious process was under control and stopped Ms. Risso’s antibiotics. In addition recommendations from the nutritional team as to Ms. Risso’s Total Parenteral Nutrition (“TPN”) orders do not appear to have been followed.

26. Ms. Risso’s condition failed to show signs of any significant recovery and by the third week of June her condition once again worsened. She began to manifest progressive signs and symptoms of sepsis. By June 17, 2007, her temperature was 103.4, her heart rate was 139 and her respiratory rate had increased to 22 beats per minute.

27. On June 19, 2007, Dr. Dang, again contrary to the standard of care, took Ms. Risso back to surgery for yet another exploratory laparotomy. Dr. Dang noted multiple fistulas and resected two segments of small intestine. He also attempted direct suture repair of yet a third opening in Ms. Risso’s intestine. Dr. Dang also undertook to repair once again Ms. Risso’s parastomal hernia. All of these interventions were carried out despite the fact that Ms. Risso’s nutritional status at the time of this procedure was severely depleted. At this operation, drains were finally placed within the abdominal cavity, nutritional catheters and appropriate diagnostic contrast studies of the small intestine were still not obtained.

28. Ms. Risso’s status remained critical, so much so that her life-threatening condition required the use of extremely powerful medications to help support and maintain her blood pressure at a barely acceptable levels. Her condition failed to improve and by early July, Ms. Risso was once again in profound septic shock and on the verge of death.

29. Dr. Dang inappropriately took Ms. Risso back to surgery for yet a fifth major

abdominal operation July 4, 2007 and attempted direct suture repair of the fistulous openings during the operative procedure.

30. For reasons that remain unclear, Dr. Dang re-operated once again upon Ms. Risso.

31. After this sixth operation, Ms. Risso's condition stabilized somewhat and eventually she was transferred to the University of Maryland on July 17, 2007. During her hospitalization at the University of Maryland, appropriate diagnostic testing was undertaken and her nutritional deficits finally addressed.

32. Ms. Risso continued to experience multiple and significant complications stemming from her enterocutaneous fistulas. The most significant of these was marked damage to her heart.

33. To this day, Ms. Risso continues to suffer significant pain, stress and emotional distress, incurring substantial medical bills for the injury. Furthermore, she is mostly housebound secondary to her injuries.

COUNT I - NEGLIGENCE

34. Claimants adopt and incorporate all factual allegations contained in paragraphs 1 through 23.

35. Health Care Provider Dr. Dang, acting individually, and as actual and/or apparent agent, servant, and/or employee, and within the scope of his agency, service and/or employment of Atlantic General, Dr. Dang LLC and Surgical Associates owed the Claimant the duty to

exercise that degree of care and skill which reasonably competent like health care providers would have exercised under the same or similar circumstances.

36. Dr. Dang, acting individually, and as actual and/or apparent agent, servant, and/or employee, and within the scope of his agency, service and/or employment of Atlantic General, Dr. Dang LLC and/or Surgical Associates, failed to act as a reasonably competent like health care provider would have acted under the same or similar circumstances, breached his duties, deviated from the acceptable standards of care, and was negligent in many ways, including, but not limited to:

- (a) subjecting Ms. Risso to an emergent laparotomy on May 25, 2007, the date when she first was diagnosed with an enteric fistula;
- (b) failing to obtain proper and full informed consent;
- (c) failing to adequately assess the nature and severity of her fistulous process by obtaining the necessary and appropriate diagnostic tests to further delineate the anatomic features of the fistula(s) during her initial presentation, and her multiple operative procedures, or her lengthy hospitalizations;
- (d) failing to establish adequate drainage of Ms. Risso's fistula output and thereby failing to control and prevent her ongoing sepsis;
- (e) failing to provide and achieve adequate nutritional support;
- (f) subjecting Ms. Risso to unnecessary repetitive and extremely harmful major abdominal operations;
- (g) attempting to repair an enteric fistula(s) on multiple occasions by direct suture closure;
- (h) failing to provide adequate and appropriate closure of Ms. Risso's abdominal wall during her multiple surgical procedures;

- (i) failing to recognize and treat ongoing sepsis and its affect on Ms. Risso's heart condition;
- (j) failing to timely remove a three-month old indwelling central venous catheter in the face of persistent bacteremia and the new onset of congestive heart failure;
- (k) failing to transfer Ms. Risso in a timely fashion to a surgeon who has the requisite knowledge and experience in the management of enterocutaneous fistula(s) and to a medical facility equipped to appropriately manage an enterocutaneous fistula.
- (l) failing to render adequate and appropriate postoperative care and treatment to Ms. Risso;
- (m) failing to appreciate the severity of Ms. Risso's condition postoperatively;
- (n) failing in other ways to manage Ms. Risso's condition in accordance with the accepted standards of care;
- (o) other negligent acts or omissions that may become apparent throughout the course of discovery.

37. Atlantic General, and Dr. Dang LLC, and Surgical Associates are vicariously liable for the actions of Dr. Dang who, at all times was acting as its actual and/or apparent agent, servant and/or employee, acting within the scope of his agency and/or authority.

38. The above referenced negligence of the Health Care Provider Dr. Dang individually and as an individual and/or agent(s), servant(s) and/or employee and within the scope of his agency, service and/or employment of Health Care Providers Atlantic General, Dr. Dang, LLC, and/or Atlantic Surgical, jointly and severally, without any negligence on the part of Linda Risso contributing thereto, proximately caused Linda Risso to suffer severe, painful, permanent and disabling injuries, including but not limited to past and future physical pain,

severe mental anguish and fear of death, emotional pain and suffering, decreased quality of life and the likely need for future medical, nursing, hospital, pharmaceutical, rehabilitative, and custodial care, loss of enjoyment and quality of life, medical and other expenses, past, present and future. Had Dr. Dang adhered to the applicable standard of care, Linda Risso would not have suffered as she has in the past and will continue to suffer in the future, both economically and non-economically.

WHEREFORE Claimant Linda Risso, requests that judgment be entered against the health care providers jointly and severally, in an amount that will fully, adequately, justly and fairly compensate claimant, and interest thereon as allowed by law and the costs of this action.

COUNT II- LOSS OF CONSORTIUM

39. Claimants hereby adopt and incorporate all factual allegations contained in paragraphs 1 through 38.

40. Linda Risso and Donald Risso were husband and wife at the time of the occurrences referenced in this Statement of Claim. They were married on April 20, 1963, and continue to be husband and wife.

41. The negligent conduct of all aforementioned health care providers, directly and proximately caused injury to the marital relationship of Linda Risso and Donald Risso, including a loss of society, services, affection, assistance, comfort, companionship, and of sexual relations.

42. Mr. Risso has been caused, presently and in the future, to suffer of the loss of his spouse's companionship, services, society, and the ability of Ms. Risso, and has in those respects

been impaired and depreciated, and the marital association between husband and wife has been altered and, accordingly, Mr. Risso has been caused great mental anguish.

WHEREFORE, Claimants Linda and Donald Risso requests that judgment be entered against the health care providers jointly and severally, in an amount that will fully, adequately, justly and fairly compensate them, and interest thereon as allowed by law and the costs of this action.

Dated: 6/18/10

Respectfully submitted,

Attorneys for the Claimants