



MARY HAYES
[REDACTED]
Gaithersburg, Maryland 20877

BEFORE THE
HEALTH CARE

Claimant

ALTERNATIVE DISPUTE

v.

RESOLUTION OFFICE

DANIEL A. JALLER, M.D.
1950 Amaranth Drive
Germantown, Maryland 28874

HCA No.: 2009-535

and

GERMANTOWN PRIMARY
CARE ASSOCIATES, P.C.
12850 Middlebrook Road
Germantown, Maryland 20874

Serve on Resident Agent:
David A. Carris
7101 Wisconsin Avenue, Suite 1040
Bethesda, Maryland 20814

Defendants

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AMENDED COMPLAINT

COUNT I

COMES NOW the Claimant, Mary Hayes, by her attorneys,

sues, Daniel A. Jaller, M.D., and

Germantown Primary Care Associates, P.C., Defendants:

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

2. The Claimant alleges that the Defendant Jaller herein, including duly authorized

agents and/or employees of the Defendant professional associations. owed to the Claimant 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 of treatment in response to such ongoing surveillance and evaluation -- all of which the Defendant failed to do.

3. The Defendants Germantown Primary Care Associates. P.C. were 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 were otherwise negligent.

4. The Claimant alleges that the Defendants Germantown Primary Care Associates. P.C., through their agents, servants and employees, owed to the Claimant a duty to exercise a 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, tests, surgery and/or treatment to correct such conditions without inflicting injury upon the Claimant, continuous evaluation of the Claimant's condition and effects of such treatment, and the adjustment of the course of treatment in response to ongoing surveillance and evaluation -- all of which the Defendants failed to do.

5. The Defendants Germantown Primary Care Associates, P.C., through its agents, servants and/or employees, was negligent in that it failed to employ appropriate treatment, surgery and/or procedures, failed to carefully and thoroughly evaluate the Claimant's condition, failed to thoroughly evaluate the effects and results of any tests, treatment and/or procedures performed, 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, failed to diagnose the Claimant's condition and were otherwise negligent. At all times referred to herein, the Defendant Jaller acted for himself and as a duly authorized agent and/or employee of the Defendant Germantown Primary Care Associates, P.C., acting within the scope of his authority.

6. As the direct and proximate result of the ongoing negligence of these Defendants, the Claimant suffered unending physical pain, emotional anguish as well as serious and permanent disability as is more fully described, hereinbelow.

7. It is alleged that the Claimant, Mary Hayes, was a patient of the Defendant Jaller for a significant period of time. At all times referred to herein, the Defendant Jaller held himself out to be an expert in internal medicine.

8. It is alleged that up until August 16, 2006, the Defendant Jaller was treating the

Claimant with a variety of different medications for a diagnosis he made of fibromyalgia. Inexplicably, after that visit, the Defendant Jaller changed his diagnosis to Lyme's Disease and malaria. It is alleged that both diagnoses bore no relationship to reality. It is alleged that the Claimant suffered from no tick bite, had no rash, and was provided with absolutely no laboratory studies with which to confirm the diagnosis. It is alleged that the standards of care require the Defendant to obtain the necessary laboratory results to confirm a diagnosis of Lyme's Disease prior to, instituting and continuing with treatment. Further, the Claimant had never left the United States and had absolutely no risk factors for contracting malaria. In short, the diagnoses were ludicrous and supported by no clinical or laboratory evidence whatsoever.

9. It is alleged that the treatment prescribed by the Defendant Jaller was likewise ludicrous. It is alleged that over for nineteen (19) months after making his "diagnoses," the Claimant was treated with a variety of drugs by this Defendant including, but not limited to, Levaquin, Quinine, Amoxicillin, Clindamycin, Doxycycline, Flagyl, Zithromax, Cipro, Clarithromycin, and Rifampin. Obviously, these drugs did nothing to treat her diagnosed conditions since she did not suffer with Lyme's Disease or malaria.

10. Moreover, in April of 2007, when the Defendant Jaller finally performed initial laboratory studies which confirmed that the Claimant did **not** have Lyme's Disease or malaria, the Defendant negligently continued to prescribe a variety of antibiotic therapy.

11. Amazingly, on April 23, 2007, the Claimant placed a Peripherally Inserted Central Catheter (PICC) line to administer intravenous antibiotics since she was not responding to the plethora of other antibiotics which he had recklessly prescribed.

12. Predictably, on May 13, 2008, the Claimant was admitted to a local hospital for severe abdominal pain, weight loss, and change in bowel habits. Evaluation of her condition

confirmed that she had developed severe antibiotic related *Clostridium Difficile* (*C. Diff*) *Colitis* as the direct and proximate result of the ongoing variety of antibiotics with which she was bombarded.

13. Subsequently, it is alleged that although the Claimant finally came under the care of a specialist in infectious disease, she continues to suffer with chronic colitis, recurrent *C. Diff* infections, and other gastrointestinal compromise, including but not limited to, severe abdominal cramping, incontinence, and anorexia for which she has required ongoing treatment.

14. It is alleged that all of the gastrointestinal and other conditions from which the Claimant suffers directly and proximately resulted from the ongoing and negligent diagnoses and prescription of the drugs referred to hereinabove. In fact, the ongoing courses of antibiotics effectively wiped out the normal flora in her gastrointestinal system, rendering her vulnerable to repeated *C. Diff* infections and the other conditions from which she continues to suffer.

15. It is alleged that the Claimant has in the past, is presently, and will in the future continue to suffer excruciating physical pain, emotional anguish, as well as fear, anxiety, humiliation and embarrassment over her condition. She has lost her former state of physical and emotional well-being, is unable to engage in activities she has previously enjoyed, and has been unable to sustain gainful employment -- all as the direct and proximate result of the continuing negligence of these Defendants. Additionally, it is alleged that the Claimant has in the past, is presently, and will in the future continue to incur hospital, surgical, pharmacological, physiotherapeutic, and other losses and expenses for which claim is made.

16. Had this Defendant conformed with the applicable standards of care, it is alleged that none of the diagnoses would have been made, none of the potent medications would have been prescribed on an ongoing basis -- and all of the injuries, damages and permanent disability

suffered by the Claimant would have been avoided.

17. The Claimant refers to the negligence of these Defendants and each of them as the sole and proximate cause of all of the injuries, damages and permanent disability from which she suffers -- with the Claimant being in no way contributorily negligent.

18. The negligence complained of occurred in Montgomery County. Venue is claimed in Montgomery County. The amount in controversy exceeds Thirty Thousand Dollars (\$30,000.00).

Attorneys for the Claimant