

KEVIN MCCOOG, Individually
515 Hilltop Drive
Timonium, Maryland 21093

and

KEVIN MCCOOG, as Parent and
Next Friend of Mia McCoog
515 Hilltop Drive
Timonium, Maryland 21093

and

KEVIN MCCOOG, as Parent and
Next Friends of Max McCoog
515 Hilltop Drive
Timonium, Maryland 21093

and

KATHERINE SAFRAN
2895 Leigh Road
York, Pennsylvania 17402

and

ROBERT SAFRAN, SR.
2895 Leigh Road
York, Pennsylvania 17402

Plaintiffs,

vs.

SAMUEL R. AKMAN, M.D.
1205 York Road, Suite 14
Lutherville, Maryland 21083

and

LAURA A. BURNHAM, C.R.N.P.
1205 York Road, Suite 14
Lutherville, Maryland 21083

and

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY

* Case No.: 03-C-13-014134

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2013 DEC 12 A 11:14
CLERK OF CIRCUIT COURT
BALTIMORE COUNTY

yp

zel

cc: Dept Health & mental hygiene

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OB/GYN SPECIALISTS OF MARYLAND, LLC *
1205 York Road, Suite 14 *
Lutherville, Maryland 21083 *

Defendants. *

* * * * *

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, Kevin McCoog, Individually and Mia McCoog, a minor, by and through her father and next friend Kevin McCoog, and Max McCoog, a minor, by and through his father and next friend Kevin McCoog, and Katherine Safran and, Robert Safran, Sr., parents of the decedent, by and through their undersigned counsel, H. Briggs Bedigian and Gilman & Bedigian, LLC, hereby sue the Defendants, Samuel R. Akman, M.D., Laura Burnham, C.R.N.P. and OB/GYN Specialist of Maryland, LLC., and in support of their causes of action state as follows:

JURISDICTION, VENUE AND PARTIES

1. This medical negligence claim is instituted pursuant to Md. Code Ann., Cts. & Jud. Proc. §§ 3-2A-01 - §3-2A-10, for the recovery of damages in excess of Thirty Thousand Dollars (\$30,000.00).
2. Venue is proper in Baltimore County, Maryland.
3. Plaintiffs hereby attach and incorporate herein by this reference the Certificates of Merit and Expert Reports of Richard Stokes, M.D. and Barry L. Singer, M.D.
4. Defendant Samuel R. Akman, M.D. is, and at all times relevant hereto was, a physician licensed to practice medicine, including Obstetrics and Gynecology, in the State of Maryland. At all times relevant hereto, Dr. Akman acted individually and/or as the actual and/or apparent agent, servant and/or employee of Defendant, OB/GYN Specialist of Maryland, LLC.

5. Defendant Laura A. Burnham C.R.N.P. is, and at all times relevant hereto was, a certified-registered nurse practitioner licensed in the State of Maryland to provide obstetrics and gynecology services to individuals in need thereof. At all times relevant hereto, CRNP Burnham acted individually and/or as the actual and/or apparent agent, servant and/or employee of Defendant OB/GYN Specialist of Maryland, LLC.

6. Defendant, OB/GYN Specialist of Maryland, LLC. is, and at all times relevant hereto was, a professional association engaged in the operation of providing health care services, including obstetrics and gynecology services, to individuals in need thereof. At all times relevant hereto, OB/GYN Specialist of Maryland, LLC., acted directly and/or by and/or through its actual and/or apparent agents, servants and/or employees, Samuel R. Akman,, M.D. and Laura A. Burnham, C.R.N.P.

STATEMENT OF FACTS

7. On November 12, 2012 Plaintiff Lynly Safran sadly succumbed to her courageous battle with terminal breast cancer. Ms. Safran is survived by her Husband Kevin McCoog, her two minor children Mia McCoog and Max McCoog and her parents, Katherine Safran and Robert Safran, Sr.

8. Ms. Safran was a patient at OB/GYN Specialists of Maryland for her routine obstetric and gynecologic care including, but not limited to, breast health. According to the Defendants' medical records, Ms. Safran had a strong family history of breast cancer that mandated heightened concern and screening from her health care providers.

9. In 2007, after her annual gynecological visit, Ms. Safran had a baseline screening mammogram performed at the bequest of her health care providers at OB/GYN Specialists of Maryland. The mammogram report detailed the fact that "the breasts are very dense limiting

sensitivity of the exam.” Otherwise the exam was normal.

10. In 2008 Ms. Safran again presented to her health care providers at OB/GYN Specialists of Maryland for her annual exam. It was reported that her breast exam was normal.

11. In January of 2009 Ms. Safran underwent another screening mammogram with Computer-Aided Detection software. It was specifically noted that Ms. Safran had “extremely dense fibroglandular tissue with nodular parenchymal pattern is present bilaterally, which lowers the sensitivity of mammography.” It was thereafter specifically noted in the interpreting Radiologist’s impression to “consider elective supplemental screening ultrasound for breast density.”

12. According to the medical records, Ms. Safran’s mammogram report was sent and reviewed by Dr. Samuel Akman at OB/GYN Specialists of Maryland. Despite Ms. Safran’s strong family history of breast cancer and the fact that her mammogram report specifically stated that it was of lower sensitivity, Dr. Akman chose not to obtain the recommended ultrasound screening.

13. On May 11th, 2009, Ms. Safran came to see the health care providers at OB/GYN specialists of Maryland for a suspicious mass she found on her breast. Ms. Safran was seen by Nurse Practitioner Burnham. According to the record of this office visit Nurse Burnham performed a physical exam where she found an abnormal mass on Ms. Safran’s left side but still concluded that Ms. Safran’s breast exam was normal. Nurse Burnham concluded that Ms. Safran had benign breasts cysts. No further diagnostic studies or consultations were performed on this date; and according to Nurse Burnham’s chart entry, the patient was reassured that everything was within normal limits and discharged.

14. On May 14th 2009 Dr. Akman wrote a letter to Ms. Safran’s health insurer

indicating his awareness of Ms. Safran's heightened risk for breast cancer given her strong family history of the disease. The letter stated, in pertinent part, as follows:

To Whom it May Concern:

Ms. Lynly Safran is a patient under our continuing medical care. Ms. Safran has a strong family history of breast cancer. It is therefore our recommendation that Ms. Safran undergo yearly mammograms due to her family history. Please pay for this medically necessary mammogram...

15. According to the medical records. On September 24th, 2009 Ms. Safran again presented to Nurse Burnham, CRNP, at OB/GYN Specialists of Maryland with complaints of feeling the cysts that were subject of her May 11th visit increasing in size.

16. According to the medical records, Nurse Burnham finally appreciated Ms. Safran's heightened risks and alarming findings and referred her for a diagnostic mammogram and ultrasound. However, those tests were not performed until October 6th and 7th respectively. Unfortunately, the more specific ultrasound diagnostic study revealed advanced breast cancer that had metastasized. Ms. Safran was then scheduled for an immediate core biopsy, diagnostic MRI and PET scan. Once performed these further studies demonstrated advanced breast cancer with spread to the neck and pelvis.

17. Thereafter, Ms. Safran's advanced cancer care was managed by the physicians at Johns Hopkins Hospital. According to her medical records, Ms. Safran thereafter engaged in courageous battle for survival, which she ultimately lost on November 12, 2012.

18. The applicable standards of care required Dr. Akman, CRNP Burnham and the other health care providers at OB/GYN Specialists of Maryland to suspect, consider, diagnose and treat Plaintiff's underlying malignant process.

19. The applicable standards of medical care required Dr. Akman to perform an ultrasound after his review of the radiologist's January 29th, 2009 Mammogram Report

indicating that an ultrasound should be considered. Dr. Akman continued to deviate from standards of care by not recommending more heightened breast cancer awareness, screening and prevention thereafter.

20. Furthermore Nurse Burnham deviated from applicable standards of medical care on May 11th in failing to appreciate Ms. Safran's alarming findings and instead assuming Ms. Safran simply had benign cysts. Nurse Burnham further deviated from standards of care thereafter by not recommending and/or performing a more heightened breast cancer screening given Ms. Safran's increased risk of having an underlying malignancy. Furthermore, Dr. Akman and the other health care providers at OB/GYN Specialists of Maryland failed to properly supervise and oversee Nurse Burnham's negligent conduct.

21. The health care providers deviated from applicable standards of care by failing to timely and appropriately diagnose and treat Plaintiffs' decedent's underlying condition. As a direct and proximate result of the Defendants' negligence, Plaintiff's condition went undiagnosed, untreated and was allowed to progress to a terminal disease.

22. Had the Defendants complied with the applicable standards of care, to a reasonable degree of medical certainty, Plaintiffs' decedent's malignancy would have been diagnosed and treated in a time frame where she could have been cured of her disease and lived to her normal life expectancy. Unfortunately, due to the Defendants' deviations from the standards of care, Plaintiffs' decedent's condition and underlying cancer was allowed to progress and spread to where it was then a fatal diagnosis.

COUNT I
(Wrongful Death)

Plaintiffs, Kevin McCoog, Individually, and Mia McCoog, a minor, by and through her father and next friend Kevin McCoog and, Max McCoog, a minor, by and through his father and

next friend Kevin McCoog and, Katherine Safran and, Robert Safran, Sr., hereby sue the Defendants, Samuel R. Akman, M.D., Laura Burnham, C.R.N.P. and OB/GYN Specialist of Maryland, LLC., and state:

23. The Plaintiffs incorporate herein by this reference and re-alleges the above paragraphs of this Statement of Claim.

24. As a direct and proximate result of the negligence of each of the Defendants, Plaintiffs have suffered and will continue to suffer mental anguish, emotional pain and suffering, loss of society, companionship, comfort, protection, guidance, attention and care, among others.

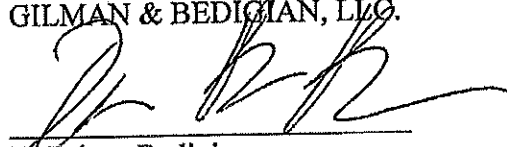
25. Plaintiffs Kevin McCoog and his children have suffered an economic loss for the lost earnings of the decedent and the loss of parental and household services secondary to the illness and death of the decedent.

26. The injuries and damages complained of herein were directly and proximately caused by the negligence and lack of care of the Defendants acting individually and through their agents, servants and employees.

WHEREFORE, Plaintiffs, Kevin McCoog, Individually, and Mia McCoog, a minor, by and through her father and next friend Kevin McCoog, and Max McCoog, a minor, by and through his father and next friend Kevin McCoog, and Katherine Safran and Robert Safran, Sr., bring this action against the Defendants and seeks damages that that will adequately and fairly compensate them in excess of all jurisdictional limits.

Respectfully Submitted,

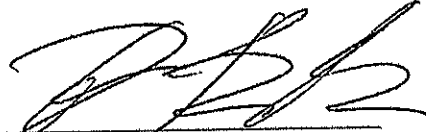
GILMAN & BEDIGIAN, LLC.



H. Briggs Bedigian
108 W. Timonium Road, Suite 203
Timonium, Maryland 21093
410 560-4999
Counsel for Plaintiffs

JURY TRIAL DEMAND

The Plaintiffs hereby demand a trial by jury on all of the issues raised in Plaintiffs' Complaint.



H. Briggs Bedigian

Case: 03-C-13-014134
CF-Civil Fili \$80.00
Appearance Fee \$10.00
MLSC \$55.00
TOTAL \$145.00

COMMENT:
McCooe et al vs Arkman et al

Receipt #201300031275
Cashier: GAL CCBAC00081
12/12/13 11:41am



GILMAN & BEDIGIAN, LLC
— Trial Attorneys

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(MD, PA AND DC BARS)
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December 9, 2013

Clerk of the Circuit Court
Baltimore County, Maryland
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RE: *Kevin McCoog, et al. v. Samuel Akman, M.D., et al.*
Initial Filing

Dear Clerk:

Enclosed please find a Complaint and a check in the amount of \$145.00 to cover the cost of filing same.

Please return all summons to this office so that I may serve the Defendant by private process.

Thank you for your attention to this matter.

Very truly yours,


H. Briggs Bedigian

HBB/jmg
Enclosures