

2016 WL 4010033 (Md.Cir.Ct.) (Trial Pleading)
Circuit Court of Maryland.
Baltimore City

Christian J. WEISMAN, in his capacity as Power of Attorney
for, and on behalf of, Beatrice J. Weisman, Plaintiff,

v.

MARYLAND GENERAL HOSPITAL, INC., Health Care Provider/Defendant.

No. 24-C-16-004199.
July 25, 2016.

Statement of Claim

Robert D. Schulte, Schulte Booth, P.C., 785 Elkridge Landing Road, Suite 150, Linthicum, Maryland 21090, (410) 850-4600, rschulte@schultebooth.com, Counsel for Christian J. Weisman.

Christian J. Weisman in his capacity as Power of Attorney for Beatrice J. Weisman, by and through their attorneys, Robert D. Schulte and Schulte Booth, P.C., and pursuant to Md. Code Ann. (2015). § 3-2A-01. *et seq.* of the Courts and Judicial Proceedings Article, hereby sues Maryland General Hospital, Inc. As cause, Plaintiff states as follows:

PARTIES

1. Beatrice J. Weisman (“Mrs. Weisman or Plaintiff”) is a natural person who resides in Talbot County, Maryland and who has duly appointed her eldest son, Christopher J. Weisman, as her General Power of Attorney who brings this suit in that capacity and as required by Md. Code Ann. (2015), § 17-113(5)(c) of the Estates and Trust Article
2. Health Care Provider, Maryland General Hospital, Inc. is a member of the University Maryland Medical System and a corporation Formed and existing under the laws of the State of Maryland
3. The Maryland General Hospital is situate in Baltimore City, Maryland and is colloquially known as the University of Maryland Medical System's “Midtown Campus.”

JURISDICTION AND VENUE

4. Insofar as both Parties are residents of the State of Maryland, jurisdiction is proper in the Circuit Court for Baltimore City pursuant to Md. Code Ann. (2012), §§ 6-102 & 6-103 of the Courts and Judicial Proceedings Article.
5. Venue too is proper in that Court pursuant to Md. Code Ann. (2012). § 6-201(b) of the Courts and Judicial Proceedings Article because the Defendant's principal offices are situate, and the events prompting this Complaint occurred, in Baltimore City.

NATURE OF CLAIMS

6. This Complaint arises out of the Defendant's utter failure to honor the express wishes of Mrs. Weisman to control her own fate and in direct contravention of her written health care instructions and the orders of her attending physician(s).

7. Specifically, and on or about August 12, 2013 and following treatment at another of Defendant's facilities, Mrs. Weisman, a woman of advanced years and poor health, was admitted to Defendant's intensive care unit and shortly thereafter to its Post Acute Special Program ("PASP") at the Defendant's Midtown Campus otherwise known as the Maryland General Hospital.

8. Prior thereto she, her immediate family, and her Health Care Agent decided that under the circumstances it was appropriate, albeit difficult, that she issue advanced directives to her health care providers to ensure that her health care wishes were known, including the provision to them of a duly executed Maryland Medical Orders for Life Sustaining Treatment (MOLST) Form.

9. Among other things, Mrs. Weisman, through her duly appointed Health Care Agent - her husband, William Weisman - specifically instructed her health care providers and Defendant's staff, employees, and agents that in the event that she "coded" - found in cardiac arrest and not breathing - no resuscitation should be attempted, that is to say, no CPR, no defibrillation, and no drugs designed to stimulate hearty activity and/or breathing.

10. In the early morning hours of August 29, 2013 at approximately 3.25a.m., Mrs Weisman was found to be blue, without spontaneous respiration and pulseless ("coded").

11. Despite her express instructions and against her wishes, Defendant employees began CPR, defibrillated Mrs. Weisman three (3) times, and injected her with epinephrine all in an effort to resuscitate her.

12. While that undesired effort was successful, Mrs. Weisman was severely injured by the violent process, has been burdened by enormous medical costs and now spends tens of thousand of dollars per month to care for herself, and was ultimately charged for medical services that she specifically advised Defendant that she did not want or were otherwise occasioned by Defendant having ignored her express wishes

13. In addition, Mrs. Weisman's family now spends significant time, energy and resources caring for her because she cannot fully care for herself, despite The expenditure of what will be a significant part of her Estate and that of her late husband's.

14. This all occurred because the Defendant and its employees either could not read a simple medical chart and/or failed to adopt simple protocols to ensure that Mrs. Weisman's express healthcare wishes were honored, especially as those wishes related to highly personal decisions affecting would should have been the final hours of her life.

FACTUAL ALLEGATIONS

15. Beatrice J. Weisman is the matriarch of the Weisman family - a family of multiple children that are close and who, in the most, are otherwise the joint proprietors of an engineering firm known as Chesapeake Testing and Balancing, Inc. ("the Business").

Christian J. WEISMAN, in his capacity as Power of..., 2016 WL 4010033...

16. William Weisman, now deceased, was the Patriarch of the family and was one (1) of the founding members of the Business,

17. The family, its individual members and the Business are by any measure successful, due in no small part to careful planning and thoughtful decision making that serves as the hallmark of successful individuals and families.

16. As part of their overall planning, and on April 18, 2012, Mrs. Weisman issued an Advanced Health Care Directive and duly appointed her husband William as her Health Care Agent.

19. On or about June 16, 2013. and at the age of Eight-Three (83), Mrs. Weisman suffered a subarachnoid hemorrhage (stroke) and aneurysm and was found to be unresponsive.

20. Emergency Medical Services (“EMS”) personnel transported Mrs. Weisman to Defendants Shock Trauma unit via life-flight.

21. At the time her overall medical condition was poor and worsening.

22 After several weeks of treatment at the University of Maryland's Neurological Unit, save for a few days in the “step-down unit,” with worsening results, with Mrs. Weisman never having left the hospital, the Weisman family, including her then-living husband, William Weisman, concluded after much thought and deliberation that it was in the best interest of Mrs. Weisman to execute a Maryland Medical Order(s) on Life Sustaining Treatment (MOLST) Form.

23. By mid-July of 2013 and given her poor health, the family, and more particularly, Mr. Weisman - Mrs. Weisman's Health Care Agent - determined that repetitive, painful and intrusive medical intervention only served to prolong what was otherwise becoming a decreasing quality of life for Mrs. Weisman and that she should be allowed to die a dignified death should her heart and/or lung function fail.

24. This foregoing exercise is not only sanctioned by Maryland Law, it is encouraged by it to ensure that healthcare providers and family members are properly, fully, and without ambiguity instructed as to an individual's wishes in advance of any condition that in the absence of it would render their wishes Opaque and so that individuals and/or their health care surrogates can make the highly personal decision to die without unwanted medical intervention and interference and to avoid being subjected to unwanted medical treatment during the final moments of life.

25. In that regard, the MOLST Form which was developed and adopted by the Maryland Legislature after input from patient advocacy groups, religious leaders, healthcare professionals, legal professionals, academics and the Maryland Attorney General's Office.

26. Following the adoption of the MOLST form in March of 2011, over seventy (70) interested parties/stakeholders, developed MOLST training tools for consumers and professionals, including flyers, written guides, slide presentations, and videos.

27. In short, the adoption of the Maryland MOLST form was an enormous undertaking designed to fully apprise Maryland's health care community of the propriety if not necessity of the MOLST Form to ensure complete Clarity of a patient's wishes in their final hours and was designed to be an enduring and portable document to effect those ends.

28. With regard to the latter, and on or about August 7, 2013, and in the presence of several family members and Defendant employee(s) and at Defendant's facility, William Weisman executed a Maryland Medical Order for Life-

Christian J. WEISMAN, in his capacity as Power of..., 2016 WL 4010033...

Sustaining Treatment (MOLST) Form - identified as MOST001 New 12/12 (“the Form”) on behalf of his wife and in his capacity as her Health Care Agent

29. Defendant employee and agent and Certified Nurse Practitioner Alyssa Davis contemporaneously countersigned the Form.

30. It provides in pertinent part:

This form includes medical orders for Emergency Medical Services (EMS) and other medical personnel regarding cardiopulmonary resuscitation and other life-sustaining treatment options for a specific patient. It is valid in all health care facilities and programs throughout Maryland. This order form shall be kept with other active medical orders in the patient's medical record. The physician, nurse practitioner (MP), or physician assistant (PA) must accurately and legibly complete the form and then sign and date it. The physician, NP, or PA shall select only 1 choice in Section 1 and only 1 choice in any of the other Sections that apply to this patient. If any of Sections 2-9 do not apply, leave them blank. A copy or the original of every completed MOLST form must be given to the patient or authorized decision maker within 48 hours of completion of the form or sooner if the patient is discharged or transferred.

31. In Section 1 of the Form, the following language is set forth:

No CPR, Option A, Comprehensive Efforts to Prevent Arrest: Prior to arrest, administer all medications needed to stabilize the patient if cardiac and/or pulmonary arrest occurs, do not attempt resuscitation (No CPR). Allow death to occur naturally.

_____ Option A-1, Intubate: Comprehensive efforts may include intubation and artificial ventilation.

_____ Option A-2, Do Not Intubate (DN1): Comprehensive efforts may include limited ventilator support by CPAP or BiPAP, but do not intubate.

_____ No CPR, Option B, Palliative and Supportive Care: Prior to arrest, provide passive oxygen for comfort and control any external bleeding. Prior to arrest, provide medications for pain relief as needed, but no other medications. Do not intubate or use CPAP or BiPAP. If cardiac and/or pulmonary arrest occurs, do not attempt resuscitation (No CPR). Allow death to occur naturally.

(Emphasis added.)

32. *Only* option A-1 was checked (#) in Section 1 of the Form.

33. Copies of the Form were placed in Mrs. Weisman's medical records/chart and copies too were retained by various members of the Weisman family. Including their daughter-in-law, Karen Weisman, a highly-experienced medical professional in her own right.

34. Thus, and as of August 7, 2013 there existed no ambiguity, no doubt, no confusion, and no justifiable reason why anyone employed by Defendant attending to the care of Mrs. Weisman did not understand that her “code status” was anything other than “DNR.”

Christian J. WEISMAN, in his capacity as Power of..., 2016 WL 4010033...

35. DNR is medical parlance for “Do Not Resuscitate.”

36. On or about August 11, 2013, various family members, including William Weisman, met with Defendant employee doctors who advised that Mrs. Weisman was chronically and severely ill and that it would be best that she be moved from Defendant's neurological intensive care unit located at 22 S. Greene Street in downtown Baltimore to the PASP situated at the Maryland General Hospital or “Midtown Campus” located at 327 Linden Avenue, Baltimore, Maryland, otherwise known as the Maryland General Hospital.

37. On or about August 12, 2013, and along with her medical records, patient chart, and MOLST Form, Mrs. Weisman was transferred to and admitted into the Midtown Campus intensive care unit,

38. Upon transfer to that facility, and although she had no obligation to do so, Karen Weisman personally carried a copy of Mrs. Weisman's MOLST Form to the Midtown Campus and both advised admitting Defendant personnel of Mrs. Weisman's “code status” and provided additional copies of that Form to those very same personnel.

39. On that same date, and much later in the day, Defendant employee Tauqeer Rahat, M.D. saw Mrs. Weisman at approximately 11:00p.m.

40. Dr. Rahat noted in Mrs. Weisman's medical records that her CPR status was “*NO CPR/DNR (as per previous records).*” (Emphasis added.)

41. A consultation report dictated by Defendant employee Amandeep Singh Bawa, M.D. also dated August 12, 2013, notes “*CODE STATUS: [Mrs. Weisman] continues to be DNR.*” (Emphasis added.)

42. Among the myriad of physiological disorders from which Mrs. Weisman suffered, severe breathing difficulties were among them.

43. Accordingly, she required a ventilator to assist her with that vital bodily function.

44. In fact, She required a tracheostomy - the cutting of a hole in her neck - so that she could be fitted with a “trach-collar” to allow the ventilator to assist her with her breathing without the necessity of an uncomfortable facial mask.

45. As a result and on or about August 13, 2013. Defendant personnel transferred Mrs. Weisman from the Midtown Campus intensive care unit to that same facility's PASP in an effort improve her breathing function and to reduce, and ultimately eliminate, the necessity of artificial respiration assistance.

46. According to Defendant it claims that the PASP:

provides an environment for patients requiring care beyond the acute phase, PASP has a team of dedicated physicians, registered nurses, license practical nurses, patient care technicians, rehabilitation and respiratory therapists, dietitians, and other health care practitioners that provide individualized patient care. The team approach to patient care is multidisciplinary and collaborative, and ensures patients' and their families' goals are reached.

47. As part of its ordinary business practice, Defendant creates a number of documents, among them a document entitled “Transfer Summary.”

Christian J. WEISMAN, in his capacity as Power of..., 2016 WL 4010033...

48. A Transfer Summary is created each and every time a patient such as Mrs Weisman is transferred from one Defendant facility to another or when she is transferred from one department within a Defendant facility to another.

49. An August 13, 2013 Transfer Summary dictated by Defendant employee Priyank Chaudhary, M.D., a then ICU resident physician, stated that “[t]he patient continues to be DNR.” (Emphasis added.)

50. On that same date, Defendant employee and patient case manager Krystal R. Tripp created a note in Mrs. Weisman's medical record that read as follows:

“This pt was transferred to UMMC Midtown Campus on the evening of August 12, 2013, She is s/p Irach/peg. As per Dr's order the pt was referred to Post Acute Specially Program. *The transfer summary and MOLST was submitted via edischarge to post acute admitting.* As of this writing, Sw is waiting for a bed assignment.”

(Emphasis added.)

51. A Hospitalist Progress Note also dated August 13, 2013 incorporates a number of boxes that can be checked or unchecked.

52. On the third page of that form, there exists a box entitled *Code Status: DNR.* (Emphasis added.)

53. The DNR box is marked with a check (#).

54. For this part, PASP Medical Director, Seblu Zera-Yohannes, M.D. issued contemporaneous physician's orders denoting that Mrs. Weisman was a “DNR” patient.

55. For another two (2) or so weeks, Mrs. Weisman's condition remained somewhat stable, but otherwise poor and she remain in the PASP during that period,

56. In the early morning hours of August 29, 2013, Mrs. Weisman stopped breathing and her heart stopped beating.

57. At approximately, 3:30A.M., Defendant personnel found Mrs. Weisman severely hypoxic and in cardiac arrest.

58. She was blue in color and unresponsive.

59. Despite her well-documented DNR status, Defendant personnel called a “code blue” and, without consulting her patient chart, administered to Mrs. Weisman violent chest compressions, chemical stimulants to her heart, and jolted her with electrical shocks - all in an effort to resuscitate her.

60. Upon information and belief, Priyank Chaudhary, M.D. was on duty during those early morning hours and present shortly before or immediately after Mrs. Weisman's code event.

61. After approximately twenty (20) minutes of Defendant employees' resuscitative efforts, Mrs. Weisman's heart once again started beating and, with the help of the ventilator, she began breathing.

62. During the process. Mrs. Weisman suffered two (2) collapsed lungs.

Christian J. WEISMAN, in his capacity as Power of..., 2016 WL 4010033...

63. Defendant's efforts to revive Mrs. Weisman contravened her express wishes, the wishes of her Health Care Agent, the wishes of her family and the orders of her attending physician(s).

64. At approximately 4:30 a.m. that same day, Defendant personnel called Mrs. Weisman's husband and Health Care Agent, William Weisman, to advise him what had transpired.

65. Thereafter, Mrs. Weisman was transferred back to the Midtown Campus intensive care unit for further treatment and stabilization of her condition.

66. Some ten (10) days later and on or about September 10, 2013, Defendant returned Mrs. Weisman back to the PASP for continuation of "ventilator management."

67. Two (2) months later, and on November 13, 2013, Defendant discharged Mrs. Weisman from its Midtown Campus facility insofar as Defendant could do nothing further for her.

68. She was released into the care of her family.

69. Upon her discharge, Mrs. Weisman was taking Nineteen (19) different drugs, receiving nutrition through a feeding tube, had catheters in both her urethra and rectum, was disoriented and otherwise suffering from bouts of dementia and delirium, required 24/7 home health care and home oxygen, and otherwise could not take care of herself.

70. As to the latter, that burden fell upon her loyal but otherwise aging husband of Fifty-Seven (57) years and upon her extended family, all of whom who took time away from their own families and other responsibilities to share the burden of caring for their now highly dependent family matriarch.

71. Although the Weisman family attempted to place Mrs. Weisman in a long-term care facility to attend to her many health-care needs, no facilities would or could take her because of her condition - including the necessity of the use of restraints and her extensive delirium - thereby forcing them to maintain Mrs. Weisman in her home at great expense and burden.

72. Approximately one (1) year later and a few days after Christmas 2014, William Weisman - Mrs. Weisman's husband of Fifty-Seven (57) years - died at home, leaving his highly dependent wife living alone and under the care of, among others, professional, but otherwise unfamiliar, caregivers.

73. The stress of caring for his wife played no small role in the death of William Weisman, something not lost on Mrs. Weisman who suffers extreme remorse for having put her husband through the ordeal, her lack of culpability notwithstanding.

74. Since her discharge from Defendant's care, Mr. Weisman, his Estate, Mrs. Weisman, and the Weisman family have expended tens of thousands of dollars per month to care for Mrs. Weisman.

75. Those expenditures continue unabated.

76. As a result, the Weisman Estate, earned and created over a lifetime of industry, is being decimated.

77. Christian Weisman, Mrs. Weisman's eldest son is occasionally asked by his

Christian J. WEISMAN, in his capacity as Power of..., 2016 WL 4010033...

mother “why did you bring me back.”

78. For his part, Christian enjoys no satisfactory answer to that question,

79. The University of Maryland Medical System, which touts itself as a “leader in quality and patient safety,” claims that it:

delivers a special blend of expertise, innovation and caring in each community [it] serve[s]. [It] shares the teaching, research and specialty expertise based at [its] academic medical center with [its] affiliated hospitals, health centers, doctors and care teams, all of which are focused on the people [it] serve[s].

80. And yet, all that Mrs. Weisman, her husband and the Weisman family have endured since August 29, 2013 occurred because the Defendant and its employees could not read, comprehend and abide by three simple letters: D-N-R.

81. As a result of this “sentinel event,” Defendant robbed Mrs. Weisman of a dignified death, guaranteed her years of further uncomfortable decay with an ever-decreasing quality of life (such as it is), a prolonged death, the witnessing of her husband's death, and ensured that her family once again will have to make very difficult decisions when that next inevitable day comes, decision(s) previously made but otherwise Ignored by Defendant, its employees, staff and agents.

COUNT I-ASSAULT

82. Plaintiff incorporates herein by references paragraphs 1-81. above.

83. At all times relevant, Plaintiff not only did not wish to be touched by Defendant employees in the event that she “coded,” she specifically instructed through her Health Care Agent not to be touched in that manner, that is to say she specifically ordered Defendant employees to administer no CPR, no chemical stimulants, and no defibrillation in her final moments of life.

84. Despite her wishes and express written instructions, Defendant employees administered to Mrs. Weisman and against her will, violent chest compressions, chemical stimulants, and electrical defibrillation.

85. These actions were undertaken deliberately and, to the extent that they violated the express wishes of Mrs Weisman. with actual malice.

86. As a result of Defendant employees' conduct, Mrs. Weisman has suffered substantial damages. Including but not limited to extreme pain and suffering, physical injury, mental distress, and monetary losses.

WHEREFORE, Plaintiff states that all damages suffered by her are more than the required jurisdictional amount of Thirty Thousand Dollars (\$30,000.00).

COUNT II-NEGLIGENCE

87. Plaintiff incorporates herein by references paragraphs 1-86, above.

Christian J. WEISMAN, in his capacity as Power of..., 2016 WL 4010033...

88. At all times relevant. Defendant owed to Mrs. Weisman a duty of reasonable care to assess, determine and effectuate her end-of-life planning requirements and desires and abids by her Maryland Medical Orders for Life Sustaining Treatment.

89. This duty of care Included the responsibility to ensure that those requirements and desires as expressed through Mrs. Weisman's Advanced Directive and Maryland Order(s) for Life Sustaining Treatment (MOLST) were honored, respected and complied with by Defendant's staff as well as by all medical personnel who might foreseeably encounter Mrs. Weisman while in the care of Defendant.

90. Defendant breached its duty of care to Mrs. Weisman by without limitation:

- a. Failing to alert attending medical personnel that she was a "DNR" patient;
- b. Failing to properly train its staff and employees to take reasonable steps to ensure the end of life planning documents are prominently noted in her chart;
- c. Failing to properly train its staff and employees to take reasonable steps to ensure that the Mrs. Weisman's end of life planning requirements and desires were honored; and
- d. Failing to take the simple step of banding or otherwise identifying Mrs. Weisman as a DNR patient upon her initial arrival at the PASP.

91. As a direct and proximate result of the negligence of the Defendant, Mrs. Weisman suffered unwanted, violent and painful medical intervention at the end of her life in violation of her express wishes to the contrary had to watch her husband endure the stress of taking care of an invalid wife, a stress that ultimately lead to his demise; will now suffer an artificially prolonged death thereby saddling her Estate as well as her extended family with enormous financial costs and other burdens too numerous to list; and otherwise will spend the remainder of her life in a condition repugnant to her values and wishes as to how and when she wanted to die.

92. But for the negligence of Defendant, Mrs. Weisman would have experienced a quick and natural death, as she had desired.

93. However, due to Defendant's negligence Mrs. Weisman will live out days as an invalid and in a manner that was contrary to her express wishes.

WHEREFORE, Plaintiff states that all damages suffered by her are more than the required jurisdictional amount of Thirty Thousand Dollars (\$30,000.00).

COUNT III - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

94. Plaintiff incorporates herein by reference paragraphs 1-90, above.

95. At all times relevant Defendant employees' conduct was intentional and/or reckless.

Christian J. WEISMAN, in his capacity as Power of..., 2016 WL 4010033...

96. At all times relevant. Defendant employees' conduct was extreme and outrageous insofar as it violated the express wishes of Mrs. Weisman and even the least trained among Defendant's employees should have known of Mrs. Weisman's DNR status as it was there to see and prominent in her medical records,

97. At all times relevant. Defendant knew or reasonably should have known that by failing to honor Mrs. Weisman's end-of-life requirements and desires as expressed through Mrs. Weisman's duly executed Advanced Directive and Maryland Order(s) for Life Sustaining Treatment (MOLST), it would create an unreasonable risk of severe emotional distress to Mrs. Weisman and Others.

98. Indeed, such severe emotional distress was virtually guaranteed, knowing that despite her desire to forego unwanted medical intervention at the hour of her death, she would be revived against her wishes and sent home to her family while medicated with Nineteen (19) different drugs, receiving nutrition through a feeding tube, with catheters in both her urethra and rectum, disoriented and suffering from bouts of dementia and delirium, requiring 24/7 home health care and home oxygen, and otherwise unable take care of herself.

99. Needless to say, there exists a causal connection between Defendant's wrongful conduct and Mrs. Weisman's emotional distress that is of a severe nature, as it would be for anyone on her position,

WHEREFORE, Plaintiff states that all damages suffered by her are more than the required jurisdictional amount of Thirty Thousand Dollars (\$30,000.00).

COUNT IV-BREACH OF CONTRACT

100. Plaintiff incorporates herein by reference paragraphs 1-99, above.

101. At all times relevant, there existed a contract between Mrs. Weisman and Defendant, express and/or implied,

102. Pursuant to that contract, Mrs. Weisman was charged over One Hundred Thousand Dollars (\$100,000.00) for the services rendered by Defendant to her and, as such, consideration supported the aforementioned contract.

103. Among other things, the contract between Defendant and Mrs. Weisman required that Defendant and its employees honor the orders of her treating health care professionals, including doctors and certified nurse practitioners as well as Plaintiff's own express health care wishes.

104. Defendant materially breached its contract with Mrs. Weisman by failing to honor her express health care wishes, end-of-life requirements and desires as expressed through her Advanced Directive and Maryland Order(s) for Life Sustaining Treatment (MOLST), by failing to honor her treating health care professional's express orders; and by administering and charging Mrs. Weisman for health-care services that she expressly stated she did not want.

105. As a result of Defendants breach of its contract with Mrs Weisman, she has suffered and continues to suffer both economic and non-economic damages.

WHEREFORE, Plaintiff states that all damages suffered by her are more than the required jurisdictional amount of Thirty Thousand Dollars (\$30,000.00). ***COUNT V - BREACH OF FIDUCIARY OBLIGATION***

106. Plaintiff incorporates herein by reference paragraphs 1-105, above.

Christian J. WEISMAN, in his capacity as Power of..., 2016 WL 4010033...

107. At all times relevant, Mrs. Weisman was a patient of Defendant's health care facilities and, as such, was entirely dependent upon Defendant's staff, employees and health-care professionals for her daily needs including, food, housing, and the administration of the health care for which she had contracted.

108. At all times relevant, Mrs. Weisman's personal needs were under the control and supervision of Defendant and, because Mrs. Weisman was receiving medical care from Defendant, this included the time and manner in which Mrs. Weisman would pass.

109. As a result of this highly-dependent relationship, there existed by necessity a relationship of trust and confidence between Defendant and Mrs. Weisman.

110. Because of this relationship of trust, there existed between Mrs. Weisman and Defendant a fiduciary relationship.

111. That fiduciary relationship burdened Defendant with the obligation to assess, determine and effectuate Mrs. Weisman's end-of-life planning requirements and desires which, through its staff, agents, employees and business records were well-known or should have been well-known to Defendant.

112. This duty of care included the responsibility to ensure that those requirements and desires as expressed through Mrs. Weisman's Advanced Directive and Maryland Medical Order(s) for Life Sustaining Treatment (MOLST) were honored, respected and complied with by Defendant's staff as well as all medical personnel who might foreseeably encounter Mrs. Weisman while in the care of Defendant.

113. Defendant utterly ignored its fiduciary obligations that it owed to Mrs. Weisman by failing to honor her express health care wishes, end-of-life requirements and desires as expressed through her Advanced Directive and Maryland Medical Order(s) for Life Sustaining Treatment (MOLST); by failing to honor her treating health care professional's express orders; and by administering and charging Mrs. Weisman for health-care services that she expressly stated she did not want.

114. In breaching its fiduciary duty to Mrs Weisman, Defendant placed its own interests above that of Mrs. Weisman who concerned itself more with delivering expensive health care to its patients rather than respecting end-of-life decisions made for the purposes of avoiding the very difficult and tragic circumstances in which Mrs. Weisman and her family now find themselves.

115. Defendant's breach of its fiduciary obligations to Mrs. Weisman (and her family) directly and proximately caused Mrs. Weisman the damages that she alleges herein.

WHEREFORE, Plaintiff states that all damages suffered by her are more than the required jurisdictional amount of Thirty Thousand Dollars (\$30,000.00)

COUNT VI - LACK OF INFORMED CONSENT

116. Plaintiff incorporates herein by reference paragraphs 1-115, above.

117. At all times relevant, Mrs. Weisman enjoyed the unqualified right to make her own health care decisions and to control her own body and destiny especially with regard to the time and manner at which she would pass.

Christian J. WEISMAN, in his capacity as Power of..., 2016 WL 4010033...

118. At all times relevant. Defendant ignored the express wishes of Mrs. Weisman, that is to say, she specifically advised Defendant, its staff, employees and agents though her duly authorized Health Care Agent, that she desired no CPR, no chemical stimulants and no defibrillation during her final moments of life to artificially prolong it.

119. Defendant ignored those wishes by administennng to Mrs. Weisman CPR, chemical stimulants and defibrillation during her final moments of life and thereby artificially prolonging it.

120. As a result, Defendant deprived Mrs. Weisman of her healthcare autonomy and of the right So determine what will and will not be done to her own body.

121. Defendant's administration of CPR and other resuscitative efforts to Mrs. Weisman in the early morning hours of August 29, 2013 were done without Mrs. Weisman's informed consent and against her express wishes.

122. All damages suffered by Mrs. Weisman as alleged herein are a direct and proximate cause of Defendant's act(s) in that regard.

WHEREFORE, Plaintiff states that all damages suffered by her are more than the required jurisdictional amount of Thirty Thousand Dollars (\$30,000.00).

COUNT VII - INJUNCTION - MARYLAND RULE 15-501, et seq.

123. Plaintiff incorporates herein by reference paragraphs 1-122, above

124. Maryland law permits injunctive relief to prevent a threatened harm under circumstances where there is a reasonable well-grounded probability that a harmful course of conduct will continue in the future or where there exists some right which will be irreparably harmed; that the benefit to the Plaintiff are equal or will outweigh the potential harm to the Defendant; the Plaintiff will suffer irreparable injury unless the injunction is granted; and the public interest will bo served by the granting of the injunction.

125. As aforesaid, Mrs Weisman enjoys an unqualified right to make her own health care decisions, especially as they relate to her end-of-life planning, including the declination of resuscitative efforts in her final hours of life

126. Defendant, its staff, and employees have actively and intentionally interfered with Mrs. Weisman's decisions in that regard or otherwise took little or no action to respect, protect, preserve and enforce her associated rights.

127. Insofar as Mrs. Weisman is a frail adult who given her condition will likely find herself once again in Defendant's facilities where her treating doctors are employed, it is imperative that her right(s) be respected by Defendant and its charges.

128. having Mrs. Weisman's rights in that regard honored would obviously benefit Mrs. Weisman as it would carry out her final wishes, the right to do so being enshrined in Maryland law.

129. Apart from reducing Defendant's revenues due to the provision of unwanted medical care, ensuring that Mrs. Weisman's end-of-life wishes are respected would impart no harm to Defendant but instead would be consistent with its claim that it is a "leader in quality and patient safety."

Christian J. WEISMAN, in his capacity as Power of..., 2016 WL 4010033...

130. Should Mrs. Weisman find herself once again in a Defendant's facilities, and should she once again have her personal health care wishes ignored, she and her family would once again suffer irreparable harm.

131. In That event, Mrs. Weisman would once again be denied the significant right to die in a manner of her own choosing, free of unwanted medical interference and intrusive medial treatment.

132. Moreover, given the ever-in creasing age of the Maryland population, there exists a significant public interest in ensuring that Defendant adopts the appropriate protocols to ensure that families who rely upon Defendant's medical services are not subjected to the horrifying journey upon which Mrs. Weisman and her family now find themselves.

133. There exists no adequate remedy at law to ensure the foregoing and the invocation of the equitable power of the court is necessary to prevent future harm to Mrs. Weisman and to all similarly situated patients.

134. In that regard, Mrs. Weisman seeks to invoke the equitable powers of this Court which should order Defendant to.

- a. Train, educate and supervise its staff regarding the rights of patients under DNR orders;
- b. Train, educate and supervise its staff regarding the transmission of DNR orders and other documentation relating to a patient's end of life choices, including the choice to die without medical interference;
- c. Implement protocols and procedures to conspicuously identify patients who have DNR orders and who have made end-of-life choices, including the choice to die without medical interference; and/or
- d. To improve its procedures regarding the transmission of DNR order and other documentation relating to a patient's end-of-life choices to die free of medical interference.

WHEREFORE, Plaintiff demands judgment against Defendant for injunctive relief, reasonable attorneys fee's, costs of this action and for such other and further relief as the nature of this cause may require.

Respectfully submitted;

SCHULTE BOOTH, P.C.

<<signature>>

ROBERT D. SCHULTE

785 Elkridge Landing Road

Suite 150

Linthicum, Maryland 21090

(410) 850-4600

rschulte@schultebooth.com

Christian J. WEISMAN, in his capacity as Power of..., 2016 WL 4010033...

Counsel for Christian J. Weisman

End of Document

© 2016 Thomson Reuters. No claim to original U.S. Government Works.