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MAR 27 2009 FILED Apr 10 2009
MICHAEL K. JEANES, Clerk
By [Signature]
Deputy

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

MARGARET FLOYD, individually and)
on behalf of all statutory beneficiaries of)
Decedent, WILLIAM J. FLOYD,

Plaintiff,

v.

LARRY S. TAMBURRO, M.D. &
JANE DOE TAMBURRO, Husband & Wife;
EAST VALLEY FAMILY PHYSICIANS, PLC;
MAHMOOD SHAHLAPOUR, M.D. &
JANE DOE SHAHLAPOUR, Husband & Wife
ASSOCIATED INTERNISTS OF
AHWATUKEE, P.C.;
and JOHN AND JANE DOES I-V;
and BLACK AND WHITE CORPS. I-V;
and GREY PARTNERSHIPS I-V,

Defendants.

CV2009-010059
No. CV-2009-_____

(Tort, Non-Motor Vehicle;
Medical Negligence)

COMPLAINT

Plaintiff, for her cause of action against the above named and fictitiously designated
Defendants, alleges as follows:

I.

1
2 Margaret Floyd, individually and on behalf of the statutory beneficiaries of
3 decedent, William Floyd ("Plaintiff") is a resident of Phoenix, Arizona. Defendants Larry
4 S. Tamburro, M.D. and Jane Doe Tamburro, Husband and Wife, ("Defendants Tamburro");
5 East Valley Family Physicians, P.L.C. ("Defendant East Valley"); Defendants Mahmood R.
6 Shahlapour and Jane Doe Shahlapour ("Defendants Shahlapour"); and Associated
7 Internists of Ahwatukee, P.C. ("Defendant Associated Internists") all practice or provide
8 medical care and services in the State of Arizona in the County of Maricopa, and on
9 information and belief Defendants are residents of Maricopa County, Arizona. Plaintiff
10 brings this action pursuant to the Arizona Medical Malpractice Act, A.R.S. 12-561 et. seq.

11 II.

12 The events which are subject to this litigation occurred in Maricopa County,
13 Arizona.

14 III.

15 The true names of John and Jane Does I-V, Black and White Corporations I-V, and
16 Grey Partnerships I-V are presently unknown to Plaintiff and, therefore, they are
17 designated by use of fictitious names and capacities. Plaintiff is informed and believes and
18 therefore alleges that each Defendant so designated may be legally responsible in some
19 manner for the events referred to herein and proximately caused damage to Plaintiff. If
20 Plaintiff at a later time discover the identities of these fictitiously named parties, Plaintiff
21 will at that time seek leave of the Court to amend this Complaint and name the presently
22 fictitiously-named Defendants and more fully describe their conduct which has contributed
23 to damages sustained by Plaintiff.

24
25 IV.

26 That each of the individually named Defendants were at all times acting for the
27 benefit of their marital community.

1 V.

2 At all times pertinent hereto, each of the individually named Defendants acted as
3 the agent, ostensible agent, and/or servant of every other named Defendant.

4
5 VI.

6 At all times mentioned herein, Defendant Tamburro was functioning as a physician
7 licensed to practice medicine within the State of Arizona and held himself out to Decedent,
8 William Floyd and to the public as qualified and skilled in family medicine and licensed
9 under the laws of the State of Arizona. And, at all times pertinent hereto and for years
10 past, Defendant Tamburro engaged in the practice of family medicine where persons
11 requiring care and treatment are given such for a consideration. And, at all times pertinent
12 hereto, Defendant Tamburro represented and held himself out to the public, and in
13 particular Decedent Floyd, as a qualified physician educated and prepared to receive the
14 public, and in particular Decedent Floyd for his general and family practice care, diagnosis,
15 and treatment.

16
17 VII.

18 At all times mentioned herein, Defendant Shahlapour was functioning as a
19 physician licensed to practice medicine within the State of Arizona and held himself out
20 to Decedent, William Floyd and to the public as qualified and skilled in internal medicine
21 and licensed under the laws of the State of Arizona. And, at all times pertinent hereto and
22 for years past, Defendant Shahlapour engaged in the practice of internal medicine where
23 persons requiring such care and treatment are given such for a consideration. And, at all
24 times pertinent hereto, Defendant Shahlapour represented and held himself out to the
25 public, and in particular Decedent Floyd, as a qualified physician educated and prepared
26 to receive the public, and in particular Decedent Floyd for his internal medicine care,
27 diagnosis, and treatment.

1 VIII.

2 Jane Doe Tamburro and Jane Doe Shahlapour, upon information and belief, are the
3 spouses of Defendants Tamburro and Shahlapour, and are named as a party herein because
4 they benefitted financially from the professional earnings of their spouse, whereby the
5 community property of such husband and wife were augmented.

6
7 IX.

8 At all times mentioned herein, Defendant East Valley is an Arizona corporation
9 which provides medical and family care and services in Maricopa County, Arizona, or the
10 surrounding area, and employs, controls, or otherwise is related to Defendant Tamburro,
11 in providing physicians, nurses and medical staff in Maricopa County and the
12 surrounding areas. These Defendants held themselves out to the public as being in the
13 business of furnishing family medical care and services in a competent and reasonable
14 manner.

15 X.

16 At all times mentioned herein, Defendant Associated Internists is an Arizona
17 corporation which provides internal medicine physicians, nurses, and medical staff in
18 Maricopa County, Arizona, or the surrounding area, and employs, controls, or otherwise
19 is related to Defendant Shahlapour. These Defendants held themselves out to the public
20 as being in the business of furnishing internal medical care and services in a competent and
21 reasonable manner.

22 XI.

23 All Defendants named herein, either individually, or by and through their duly
24 authorized agents, servants, and/or employees, had the duty to provide to Decedent Floyd
25 with competent and qualified medical care, and to properly diagnose, treat, render
26 competent advice and assistance, monitor, test, and render the same in accordance with the
27 medical standards of care. Plaintiff relied upon Defendants covenant to so render
28 competent care. All named Defendants breached this duty.

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XII.

This matter exceeds the jurisdictional limit of this Court and Plaintiff will at the appropriate time, and in the proper form, request a trial by jury of all applicable issues.

XIII.

Beginning with care received back as early as 2004 and a diagnosis of colon cancer in 2008, for a consideration which Plaintiff would pay and was required to pay, these Defendants undertook to furnish medical and nursing care, attention, counsel, diagnosis, testing, screening, management, treatment, and supervision for Decedent Floyd. Plaintiff relied upon these Defendants as specialists in their designated field, and as such the relationship of patient and physician and/or patient and nurse, and/or patient and medical staff was thereby created, all within the setting of Defendants East Valley and Associated Internists and under the direct supervision of Defendants Tamburro and Shahlapour.

XIV.

Beginning as early as 2004, for a fee paid, Defendants recommended, managed, diagnosed, tested, interpreted, and provided medical care and treatment to Decedent Floyd with substantial financial reward to these Defendants.

Plaintiff was never informed that this medical diagnosis, management, testing, interpretation, care and treatment by these Defendants could result in the complications and death of William Floyd. These Defendants negligence has caused the death of William Floyd and has caused Plaintiff to suffer economic damages as well as non-economic damages including pain, suffering, psychological, and hedonic damages.

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XV.

These Defendants took on the care and treatment William Floyd and were thereby responsible to work up, advise, counsel, obtain informed consent, evaluate, monitor, diagnose, test, and properly treat Decedent Floyd for his symptoms and medical conditions. The advice, counsel, obtaining of informed consent, evaluation, monitor, diagnosis, testing, care and treatment of these Defendants fell below the applicable standard of care, and that as a direct and proximate result of these respective Defendants, each and every one, falling below the applicable standard of care, Decedent Floyd suffered and died under their care.

XVI.

As a further direct and proximate result of the negligence of Defendants actions both individually and jointly, the Plaintiff has suffered monetary damages including special damages and costs directly associated with the death of Decedent Floyd. Special damages include all additional medical expenses incurred by the Plaintiff as a result of Defendants' negligent diagnosis, care and treatment.

XVII.

The actions as described above, constitute negligence in failing to provide proper counseling, testing, monitoring, work up, evaluation, diagnosis, nursing, and treatment by these Defendants, which would have resulted in consent by Decedent Floyd.

XVIII.

As a result of the Defendants actions, Plaintiff is entitled to an award of ordinary and special damages in this action based upon Defendants lack of informed consent.

XIX.

1
2 At the time of the events set forth above, these Defendants pursued a medical
3 diagnosis, care and treatment which resulted in conduct that was outrageous, negligent,
4 reprehensible and in conscious disregard for Decedent Floyd's safety and welfare, causing
5 his suffering and eventual death under their care. Defendants' course of conduct was so
6 unreasonable and merely for the financial benefit of each and every Defendant, and such
7 course of conduct was so malicious, wilful, wanton, reckless and/or grossly negligent as
8 to warrant the imposition of punitive damages to punish Defendants and to deter such
9 behavior in the future. These Defendants behavior, each and every one, included
10 consciously placing Decedent Floyd's health at substantial risk of harm resulting in his
11 death.

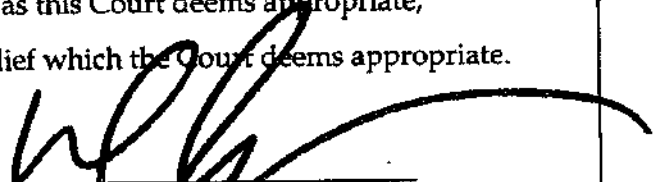
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13 WHEREFORE, Plaintiff prays for the following judgment or relief against
14 Defendants, jointly, separately and their marital communities, as follows:

- 15
16 1. For an award of general damages in an amount sufficient to fairly
17 compensate Plaintiff, in an amount not presently ascertained, but in excess
18 of the jurisdiction amount of this Court, consistent with proof in this action;
19 2. For the reasonable value of special damages including medical expenses
20 incurred to date and to be incurred in the future, in an amount not presently
21 ascertained, but in excess of the jurisdictional limits of this Court, consistent
22 with the proof in this action, together with prejudgment interest thereon;
23 3. For an award of punitive damages in an amount to be proved at trial herein
24 under the respective legal theories outlined above;
25 4. For Plaintiff's costs incurred as a result of Defendants negligent and
26 imprudent care and treatment, together with prejudgment interest thereon;

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- 1 5. For Plaintiff's costs incurred as a result of the injuries;
- 2 6. For Plaintiff's taxable costs in bringing this action;
- 3 7. For such additional damages as this Court deems appropriate;
- 4 8. For such other and further relief which the Court deems appropriate.

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6 Dated this 25 day of March, 2009.



B. Elliot Crysén
Counsel for Plaintiff
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