



**IN THE HEALTH CARE ALTERNATIVE DISPUTE  
RESOLUTION OFFICE OF MARYLAND**

**THOMAS CHAFFEE, et ux.** \*

*Claimants* \*

v. \* HCA No. 2010-038

**ST. JOSEPH MEDICAL CENTER, INC., et al.** \*

*Defendant Health Care Providers* \*

\* \* \* \* \*

**AMENDED STATEMENT OF CLAIM**

Claimants, Thomas Chaffee and Sharon Chaffee, by and through their attorneys, H. Briggs Bedigian and The Law Offices of Wais & Vogelstein, hereby file this Amended Statement of Claim and for their causes of action state as follows:

**JURISDICTION AND VENUE**

1. This medical negligence claim is instituted pursuant to Md. Cts. & Jud. Proc. Art. 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.

**THE PARTIES**

3. Claimants Thomas Chaffee and Sharon Chaffee are adult citizens of the State of Maryland residing at 2912 Cederhurst Road, Finksburg, Maryland 21048.

4. Defendant Health Care Provider St. Joseph Medical Center, Inc. was, and is, an entity licensed and duly organized and existing under the laws of Maryland, which provides health care service and hospital services to members of the public, including, but not limited to, cardiovascular and cardiothoracic surgical services. Upon information and belief, St. Joseph Medical Center performs more cardiac stent procedures than any other hospital in the State of Maryland. The

average stent procedure can cost upward of \$12,000.00.

5. At all times material hereto, Defendant Health Care Provider St. Joseph Medical Center, Inc. was acting individually and/or by and/or through its actual and/or apparent agents, servants and/or employees, including, but not limited to, Mark Midei, M.D.

6. Defendant Health Care Provider Mark Midei, M.D. was a duly licensed physician and cardiologist who regularly and continuously provided cardiology services in the State of Maryland. At all times relevant hereto, Dr. Midei's regular office and principal place of business was at St. Joseph Medical Center, which is located at 7601 Osler Drive, Towson, Maryland 21204.

7. At all times material hereto, Defendant Health Care Provider Mark Midei, M.D. was acting individually and/or as an actual and/or apparent agent, servant and/or employee of St. Joseph Medical Center, Inc.

#### **STATEMENT OF FACTS**

8. In 2009, Claimant Thomas Chaffee came under the care of Defendant Health Care Provider Mark Midei, M.D. and Defendant Health Care Provider St. Joseph Medical Center, Inc.

9. On February 5, 2009, Mr. Chaffee presented to St. Joseph Medical Center's cardiac catheterization unit to undergo a cardiac catheterization procedure. A cardiac catheterization is when a doctor inserts a small thin tube into an artery in the vein or leg and advances it to the heart to determine if there are any blockages of the coronary arteries.

10. Prior to the cardiac catheterization, Dr. Midei obtained Mr. Chaffee's consent to place medically indicated stents if any blockages in Mr. Chaffee's arteries were significant enough to warrant the placement of a stent. A stent is a small tube utilized to keep the coronary arteries open.

11. As Mr. Chaffee was a lay patient, and Dr. Midei was a board-certified cardiologist, Mr. Chaffee put his trust in Dr. Midei that if he needed intervention then Dr. Midei would only place those stents which were medically indicated.

12. Upon information and belief, during the procedure, Dr. Midei placed two (2) stents, both of which were completely unwarranted and/or medically unnecessary.

13. Furthermore, after the procedure, and with the intent to deceive Mr. Chaffee, Dr. Midei informed Mr. Chaffee that the blockages in his arteries were severe enough to require the placement of both stents.

**COUNT I**  
**(Medical Malpractice Against All Defendant Health Care Providers)**

14. The Claimant, Thomas Chaffee, incorporates herein by this reference and re-alleges paragraphs 1 through 13 above.

15. In their care and treatment of Claimant Thomas Chaffee, the Defendant Health Care Providers, acting individually and/or by and/or through their actual and/or apparent agents, servants and/or employees, owed Claimant the duty to exercise that degree of care and skill that a reasonably competent hospital, cardiologist and/or similar health care provider would have exercised under the same or similar circumstances.

16. The Defendant Health Care Providers, acting individually and/or by and/or through its actual and/or apparent, agents, servants and/or employees, breached the aforesaid duty of care to Claimant Thomas Chaffee, and were negligent by performing unnecessary, invasive and painful cardiac stenting procedures on the Claimant.

17. As a direct and proximate result of the above-mentioned deviations from the

applicable standards of care by the Defendant Health Care Providers, Claimant Thomas Chaffee suffered and/or will suffer the following permanent injuries, among others:

- A. He underwent painful and unnecessary cardiac stenting procedures;
- B. He has in the past and will sustain in the future significant pain and mental anguish and emotional distress;
- C. He is required to take anti-coagulant medication, such as Plavix, which carries a risk of life-threatening bleeding events, for an undetermined amount of time;
- D. He has sustained pecuniary losses past, present and future; and
- C. He has incurred unnecessary medical expenses.

WHEREFORE, Thomas Chaffee, Claimant, brings this action against St. Joseph Medical Center, Inc. and Mark Midei, M.D., jointly and severally, and seeks damages that will adequately and fairly compensate him, plus costs, and such other and further relief as may be deemed appropriate.

#### **COUNT II**

#### **(Fraud by Intentional Misrepresentation Against Mark Midei, M.D.)**

18. The Claimant, Thomas Chaffee, incorporates herein by this reference and re-alleges paragraphs 1 through 18 above.

19. Upon information and belief, before Dr. Midei began the cardiac catheterization procedure on Mr. Chaffee on February 5, 2009, he knew that he was going to place unnecessary stents in Mr. Chaffee's arteries. Nevertheless, he falsely and fraudulently informed Mr. Chaffee that he was only going to insert those stents that were medically necessary.

20. When Dr. Midei made his representation to Mr. Chaffee that he would only be placing those stents that were medically necessary, he did so knowing this statement was false, and with reckless disregard as to whether it was true or not, and for the purpose of defrauding Mr. Chaffee.

21. Dr. Midei's representations were material to Mr. Chaffee's consent to the placement of any stents whatsoever. Mr. Chaffee justifiably and reasonably relied on the doctor-patient relationship of trust and confidence, on his apparent expertise, and on his convincing personality, in deciding to consent to the placement of any stents at all. But for Dr. Midei's false and fraudulent statements, Mr. Chaffee would not have consented to the placement of any stents during the cardiac catheterization.

22. As a direct and proximate result of Dr. Midei's intentional misrepresentations and fraud, Claimant Thomas Chafee has suffered the injuries enumerated in Count I of this Complaint.

WHEREFORE, Thomas Chaffee, Claimant, brings this action against Mark Midei, M.D. and seeks damages, both compensatory and punitive, that will adequately and fairly compensate him, plus costs, and such other and further relief as may be deemed appropriate.

**COUNT III**  
**(Fraud by Concealment Against St. Joseph Medical Center, Inc.)**

23. The Claimant, Thomas Chaffee, incorporates herein by this reference and re-alleges paragraphs 1 through 22 above.

24. Upon information and belief, at some point prior to 2009, Defendant Health Care Provider St. Joseph Medical Center, Inc. had actual knowledge that Dr. Midei was negligently and

fraudulently advising his patients to undergo unnecessary stent procedures and/or that Dr. Midei was negligently and fraudulently placing stents in patients without proper patient consent. That is, Defendant St. Joseph Medical Center, Inc. either had affirmative knowledge of Dr. Midei's negligent and fraudulent conduct, or after having its suspicion aroused about Dr. Midei's negligent and fraudulent conduct deliberately failed to make further inquiries because it wished to remain ignorant to Dr. Midei's actions.

25. Defendant Health Care Provider St. Joseph Medical Center, Inc. had a duty to disclose to Claimant Thomas Chaffee that Dr. Midei had a history of negligently and fraudulently advising patients to undergo unnecessary stent procedures and/or negligently and fraudulently placing stents in patients without proper consent.

26. Defendant Health Care Provider St. Joseph Medical Center, Inc.'s failure to disclose the existence of Dr. Midei's prior negligent and fraudulent conduct constituted the failure to disclose a material fact, which it had a duty to disclose.

27. Defendant Health Care Provider St. Joseph Medical Center, Inc. knew that Mr. Chaffee would have declined the cardiac catheterization procedure entirely had they disclosed to him Dr. Midei's negligent and fraudulent conduct with respect to stent placement.

28. Accordingly, Mr. Chaffee relied on the belief that Dr. Midei was a good, competent and honest physician, and was justified in that reliance.

29. As a direct and proximate result of Defendant Health Care Provider St. Joseph Medical Center, Inc.'s concealment, Mr. Chaffee trusted Dr. Midei, became a victim of his fraudulent conduct, and suffered the damages enumerated in Count I of this Claim.

WHEREFORE, Thomas Chaffee, Claimant, brings this action against St. Joseph Medical

Center, Inc. and seeks damages, both compensatory and punitive, that will adequately and fairly compensate him, plus costs, and such other and further relief as may be deemed appropriate.

**COUNT IV**  
**(Negligent Hiring and Retention Against St. Joseph Medical Center, Inc.)**

30. The Claimant, Thomas Chaffee, incorporates herein by this reference and re-alleges paragraphs 1 through 29 above.

31. In or around 2008, Defendant Health Care Provider St. Joseph Medical Center, Inc. hired Defendant Health Care Provider Mark Midei, M.D. Dr. Midei was already the director of the cardiac catheterization lab at St. Joseph Hospital at the time, but he had previously been employed by MidAtlantic Cardiovascular Associates, P.A. Upon information and belief, when Dr. Midei was hired by St. Joseph Medical Center, Inc. he maintained his position as director of the cardiac catheterization lab.

32. Defendant Health Care Provider St. Joseph Medical Center, Inc. had a duty to use reasonable care to select an employee who was competent and fit to perform the duties required. St. Joseph Medical Center, Inc. owed such a duty to Claimant Thomas Chaffee, and such duty was breached when it hired and retained Dr. Midei.

33. Defendant Health Care Provider St. Joseph Medical Center, Inc. knew and/or should have known that Dr. Midei was not fit to perform the job for which he was hired, and that he was likely to commit negligent and/or fraudulent acts.

34. Defendant Health Care Provider St. Joseph Medical Center, Inc. should have been especially suspicious of Dr. Midei as a Baltimore County jury had found in 2005 that he deliberately misled a patient to believe his heart surgeon was not available to perform a bypass operation.

35. Defendant Health Care Provider St. Joseph Medical Center, Inc. breached their duty to use reasonable care to select and retain an employee that was competent and fit for the position.

36. As a direct and proximate result of Defendant Health Care Provider St. Joseph Medical Center, Inc.'s negligent hiring and retention of Dr. Midei, Claimant Thomas Chaffee suffered the injuries enumerated in Count I of this Complaint.

WHEREFORE, Thomas Chaffee, Claimant, brings this action against St. Joseph Medical Center, Inc. and seeks damages that will adequately and fairly compensate him, plus costs, and such other and further relief as may be deemed appropriate.

**COUNT V**  
**(Negligent Supervision Against St. Joseph Medical Center, Inc.)**

37. The Claimant, Thomas Chaffee, incorporates herein by this reference and re-alleges paragraphs 1 through 35 above.

38. Defendant Health Care Provider St. Joseph Medical Center, Inc. had a duty to adequately and properly supervise Dr. Midei to whom it permitted to run St. Joseph Medical Center, Inc.'s cardiac catheterization lab.

39. Upon information and belief, Defendant Health Care Provider St. Joseph Medical Center, Inc. breached this duty by failing to adequately and properly supervise Dr. Midei.

40. As a direct and proximate result of Defendant Health Care Provider St. Joseph Medical Center, Inc.'s negligent supervision, Claimant Thomas Chaffee suffered the injuries enumerated in Count I of this Complaint.

WHEREFORE, Thomas Chaffee, Claimant, brings this action against St. Joseph Medical Center, Inc. and seeks damages that will adequately and fairly compensate him, plus costs, and such other and further relief as may be deemed appropriate.

**COUNT VI**  
**(Loss of Consortium)**

41. The Claimants, Thomas Chaffee and Sharon Chaffee, as husband and wife, incorporate herein by this reference and re-allege paragraphs 1 through 40 above.

42. As a further direct and proximate result of the negligence of the Defendant Health Care Providers, Mr. and Mrs. Chaffee, who were then and are now husband and wife, were caused to sustain and suffer a loss of consortium to the detriment of their marital relationship.

43. The sole and proximate cause of the injuries sustained by the Claimants, Mr. and Mrs. Chaffee, as aforesaid, was the negligence and fraud of the Defendants Health Care Providers, without any negligence on the part of the Plaintiffs in any way contributing thereto.

WHEREFORE, Claimants, Thomas Chaffee and Sharon Chaffee, as husband and wife, bring this action against the Defendant Health Care Providers, St. Joseph Medical Center, Inc. and Mark Midei, M.D., jointly and severally, and seek damages that will adequately and fairly compensate them, plus costs, and such other and further relief as may be deemed appropriate.



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY, that on this   /   day of <sup>April</sup>~~March~~, 2010, a copy of the foregoing

was mailed, postage prepaid to:

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