

Original

KTL:wyw #04S-322 Firm I.D. 108

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

OCT 25 2005 WH

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

HELEN MONROE, Administrator of the
Estate of REGINA ROMERO, Deceased,

Plaintiff,

vs.

UNITED STATES OF AMERICA, and
MELISSA GILLIAM, M.D.,

Defendants

NO. 04 C 7358

AMENDED COMPLAINT AT LAW

Plaintiff, HELEN MONROE Administrator of the Estate of REGINA ROMERO, Deceased,
complaining of defendants, UNITED STATES OF AMERICA ("UNITED STATES"), and
MELISSA GILLIAM, M.D. ("GILLIAM"), states:

JURISDICTION AND VENUE

1. This medical negligence action arises under the Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 2671-2680. The Court has jurisdiction over non-diverse, non-federal parties pursuant to the Judicial Improvement Act, 28 U.S.C. § 13679 (a). Venue is proper in this jurisdiction because the acts complained of occurred in this jurisdiction.

2. A Standard Form 95 was timely filed with the Veteran's Administration on June 13, 2002. The agency has not taken final action.

COUNT I

Medical Negligence/Wrongful Death/United States

1. On and after July 18, 2001, the defendant managed, maintained, controlled and operated a hospital known as Veteran's Administration Medical Center, Westside Division, located in Chicago, Illinois ("WESTSIDE FACILITY").

2. Regina Romero was a patient at the Westside Facility from July 18, 2001 through September 5, 2001.

3. On July 18, 2001, at the WESTSIDE FACILITY, Regina Romero underwent a cervical biopsy known as a cold-knife conization.

4. On July 18, 2001, during the cold-knife conization, Regina Romero's vaginal/uterine wall was perforated, causing intraoperative bleeding.

5. On July 18, 2001, during the conization, caustic solution applied to control bleeding entered the abdominal cavity *via* the vaginal/uterine perforation, leading to severe chemical peritonitis, bowel wall necrosis, perforation, hemorrhage, sepsis and death.

6. On July 26, 2001, decedent underwent a bowel resection for perforation of the jejunum, secondary to chemical peritonitis and bowel necrosis.

7. On July 26, 2001, Melissa Gilliam, M.D. assisted in the bowel resection procedure.

8. On July 26, 2001, UNITED STATES employee, Dr. Stuart Lipnick, supervised the entire bowel resection procedure.

9. Before July 18, 2001, the WESTSIDE FACILITY granted to Melissa Gilliam, M.D., privileges in gynecologic surgery.

10. On July 18, 2001, Melissa Gilliam, M.D. was not board-certified in Obstetrics or Gynecology.

11. A pathology report from the July 26, 2001 surgery alerted the defendant to necrotic bowel on the anastomosis.

12. On and after July 18, 2001, defendant, UNITED STATES, by and through its agents, employees and/or apparent agents, was negligent in one or more of the following ways:

- a. Removed too large a specimen during cold-knife conization;
- b. Perforated the vaginal/uterine wall during cold-knife conization;
- c. Utilized inappropriate positioning during cold-knife conization;
- d. Failed to timely diagnose and appropriately treat vaginal/uterine wall perforation;
- e. Introduced a caustic substance to control cervical bleeding, when it knew or should have known the substance would enter the peritoneum;
- f. Failed to appropriately anastomize viable bowel;
- g. Failed to timely diagnose and treat inappropriately anastomosed bowel;
- h. Extended gynecologic surgery privileges to Melissa Gilliam, M.D.; and
- i. Failed to provide an appropriate facility/operating room for a cervical biopsy.

13. At all times relevant herein, defendant GILLIAM was an employee of the UNITED STATES.

14. At all times relevant herein, defendant GILLIAM was an agent or apparent agent of the UNITED STATES.

15. At all times relevant herein, defendant GILLIAM was under the control of the UNITED STATES.

16. As a proximate result of one or more of the above-referenced acts or omissions of the defendant's agents, employees or apparent agents, Regina Romero died on September 5, 2001.

17. Regina Romero left surviving her as her heirs and next-of-kin: Gilbert Romero, Jr., her son and Christina Czml, a minor, her daughter, and any other legal heirs at law, all of whom have sustained damages of a pecuniary nature, including loss of society.

18. Helen Monroe, duly appointed Administrator of the Estate of Regina Romero, Deceased, brings this cause pursuant to the FTCA and the Illinois Wrongful Death Act.

WHEREFORE, plaintiff, HELEN MONROE, Administrator of the Estate of REGINA ROMERO, Deceased, demands judgment against the defendant, UNITED STATES OF AMERICA, in a sum of \$50,000,000.00.

COUNT II

Medical Negligence/Survival Act/United States

1. On and after July 18, 2001, the defendant managed, maintained, controlled and operated a hospital known as Veteran's Administration Medical Center, Westside Division, located in Chicago, Illinois ("WESTSIDE FACILITY").

2. Regina Romero was a patient at the Westside Facility from July 18, 2001 through September 5, 2001.

3. On July 18, 2001, at the WESTSIDE FACILITY, Regina Romero underwent a cervical biopsy known as a cold-knife conization.

4. On July 18, 2001, during the cold-knife conization, Regina Romero's vaginal/uterine wall was perforated, causing intraoperative bleeding.

5. On July 18, 2001, during the conization, caustic solution applied to the cervix to control bleeding entered the abdominal cavity *via* the vaginal/uterine perforation, leading to severe chemical peritonitis, bowel wall necrosis, perforation, hemorrhage and eventually, sepsis and death.

6. On July 26, 2001, decedent underwent a bowel resection for perforation of the jejunum, secondary to chemical peritonitis and bowel necrosis.

7. On July 26, 2001, Melissa Gilliam, M.D. assisted in the bowel resection procedure.

8. On July 26, 2001, UNITED STATES employee, Dr. Stuart Lipnick, supervised the entire bowel resection procedure.

9. Before July 18, 2001, the WESTSIDE FACILITY granted to Melissa Gilliam, M.D., privileges in gynecologic surgery.

10. On July 18, 2001, Melissa Gilliam, M.D. was not board-certified in Obstetrics or Gynecology.

11. A pathology report from the July 26, 2001 surgery alerted the defendant to necrotic bowel on the anastomosis.

12. On and after July 18, 2001, defendant, by and through its agents, employees and/or apparent agents, was negligent in one or more of the following ways:

- a. Removed too large a specimen during cold-knife conization;
- b. Perforated the vaginal/uterine wall during cold-knife conization;
- c. Utilized inappropriate positioning during cold-knife conization;
- d. Failed to timely diagnose and appropriately treat vaginal/uterine wall perforation;

- e. Introduced a caustic substance to control cervical bleeding, when it knew or should have known the substance would enter the peritoneum;
- f. Failed to appropriately anastomize viable bowel;
- g. Failed to timely diagnose and treat inappropriately anastomosed bowel.
- h. Extended gynecologic surgery privileges to Melissa Gilliam, M.D.; and
- i. Failed to provide an appropriate facility/operating room for a cervical biopsy.

13. At all times relevant herein, defendant GILLIAM was an employee of the UNITED STATES.

14. At all times relevant herein, defendant GILLIAM was an agent or apparent agent of the UNITED STATES.

15. At all times relevant herein, defendant GILLIAM was under the control of the UNITED STATES.

16. As a proximate result of one or more of the above-referenced acts or omissions of the defendant's agents, employees or apparent agents, Regina Romero suffered injuries of a personal and pecuniary nature.

17. Regina Romero left surviving her as her heirs and next-of-kin: Gilbert Romero, Jr., her son and Christina Czml, a minor, her daughter, and any other legal heirs at law, all of whom have sustained damages of a pecuniary nature, including loss of society.

18. Helen Monroe, duly appointed Administrator of the Estate of Regina Romero, Deceased, brings this cause pursuant to the FTCA and the Illinois Survival Act.

WHEREFORE, plaintiff, HELEN MONROE, Administrator of the Estate of REGINA ROMERO, Deceased, demands judgment against the defendant, UNITED STATES OF AMERICA, in a sum of \$50,000,000.00.

COUNT III

Medical Negligence/Wrongful Death/Dr. Melissa Gilliam

1. Before and after July 18, 2001, GILLIAM was a physician licensed to practice medicine in Illinois.
2. On and before July 18, 2001, GILLIAM held herself out as a qualified gynecologist.
3. On July 18, 2001, GILLIAM was not board-certified in obstetrics or gynecology.
4. On and after July 18, 2001, the defendant, UNITED STATES, managed, maintained, controlled and operated a hospital known as Veteran's Administration Medical Center, Westside Division, located in Chicago, Illinois ("WESTSIDE FACILITY").
5. Regina Romero was a patient at the Westside Facility from July 18, 2001 through September 5, 2001.
6. On July 18, 2001, at the WESTSIDE FACILITY, Regina Romero underwent a cervical biopsy known as a cold-knife conization.
7. On July 18, 2001, during the cold-knife conization, Regina Romero's vaginal/uterine wall was perforated, causing intraoperative bleeding.
8. On July 18, 2001, during the conization, caustic solution applied to control bleeding entered the abdominal cavity *via* the vaginal/uterine perforation, leading to severe chemical peritonitis, bowel wall necrosis, perforation, hemorrhage, sepsis and death.
9. On July 26, 2001, decedent underwent a bowel resection for perforation of the jejunum, secondary to chemical peritonitis and bowel necrosis.

10. A pathology report from the July 26, 2001 surgery alerted the defendant to necrotic bowel on the anastomosis.

11. On and after July 18, 2001, defendant, GILLIAM, was negligent in one or more of the following ways:

- a. Removed too large a specimen during cold-knife conization;
- b. Perforated the vaginal/uterine wall during cold-knife conization;
- c. Utilized inappropriate positioning during cold-knife conization;
- d. Failed to timely diagnose and appropriately treat vaginal/uterine wall perforation;
- e. Introduced a caustic substance to control cervical bleeding, when it knew or should have known the substance would enter the peritoneum;
- f. Failed to appropriately anastomize viable bowel; and
- g. Failed to timely diagnose and treat inappropriately anastomosed bowel.

12. As a proximate result of one or more of the above-referenced acts or omissions of the defendant, Regina Romero died on September 5, 2001.

13. At all times relevant herein, defendant, GILLIAM, was an employee of the Veteran's Administration.

14. At all times relevant herein, defendant, GILLIAM, was an agent or apparent agent of the Veteran's Administration.

15. At all times relevant herein and while performing her duties at the Westside Facility, defendant, GILLIAM, was subject to the control of the United States.

16. Regina Romero left surviving her as her heirs and next-of-kin: Gilbert Romero, Jr., her son and Christina Czml, a minor, her daughter, and any other legal heirs at law, all of whom have sustained damages of a pecuniary nature, including loss of society.

WHEREFORE, plaintiff, HELEN MONROE, Administrator of the Estate of REGINA ROMERO, Deceased, demands judgment against the defendant, MELISSA GILLIAM, M.D., in a sum of \$50,000,000.00.

COUNT IV

Medical Negligence/Survival Act/Dr. Melissa Gilliam

1. Before and after July 18, 2001, GILLIAM was a physician licensed to practice medicine in Illinois.

2. On and before July 18, 2001, GILLIAM held herself out as a qualified gynecologist.

3. On July 18, 2001, GILLIAM was not board-certified in obstetrics or gynecology.

4. On and after July 18, 2001, the defendant, UNITED STATES, managed, maintained, controlled and operated a hospital known as Veteran's Administration Medical Center, Westside Division, located in Chicago, Illinois ("WESTSIDE FACILITY").

5. Regina Romero was a patient at the Westside Facility from July 18, 2001 through September 5, 2001.

6. On July 18, 2001, at the WESTSIDE FACILITY, Regina Romero underwent a cervical biopsy known as a cold-knife conization.

7. On July 18, 2001, during the cold-knife conization, Regina Romero's vaginal/uterine wall was perforated, causing intraoperative bleeding.

8. On July 18, 2001, during the conization, caustic solution applied to control bleeding entered the abdominal cavity *via* the vaginal/uterine perforation, leading to severe chemical peritonitis, bowel wall necrosis, perforation, hemorrhage, sepsis and death.

9. On July 26, 2001, decedent underwent a bowel resection for perforation of the jejunum, secondary to chemical peritonitis and bowel necrosis.

10. A pathology report from the July 26, 2001 surgery alerted the defendant to necrotic bowel on the anastomosis.

11. On and after July 18, 2001, defendant, GILLIAM, was negligent in one or more of the following ways:

- a. Removed too large a specimen during cold-knife conization;
- b. Perforated the vaginal/uterine wall during cold-knife conization;
- c. Utilized inappropriate positioning during cold-knife conization;
- d. Failed to timely diagnose and appropriately treat vaginal/uterine wall perforation;
- e. Introduced a caustic substance to control cervical bleeding, when it knew or should have known the substance would enter the peritoneum;
- f. Failed to appropriately anastomize viable bowel; and
- g. Failed to timely diagnose and treat inappropriately anastomosed bowel.

12. As a proximate result of one or more of the above-referenced acts or omissions of the defendant, Regina Romero died on September 5, 2001.

13. At all times relevant herein, defendant, GILLIAM, was an employee of the Veteran's Administration.

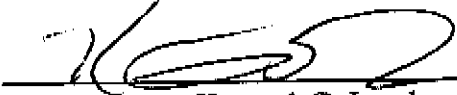
14. At all times relevant herein, defendant, GILLIAM, was an agent or apparent agent of the Veteran's Administration.

15. At all times relevant herein and while performing her duties at the Westside Facility, defendant, GILLIAM, was subject to the control of the United States.

16. Regina Romero left surviving her as her heirs and next-of-kin: Gilbert Romero, Jr., her son and Christina Czmlil, a minor, her daughter, and any other legal heirs at law, all of whom have sustained damages of a pecuniary nature, including loss of society.

17. Helen Monroe, duly appointed Administrator of the Estate of Regina Romero, Deceased, brings this cause pursuant to the FTCA and the Illinois Survival Act.

WHEREFORE, plaintiff, HELEN MONROE, Administrator of the Estate of REGINA ROMERO, Deceased, demands judgment against the defendant, MELISSA GILLIAM, M.D., in a sum of \$50,000,000.00.


Kenneth T. Lumb

CORBOY & DEMETRIO, P.C.
Attorneys for Plaintiff
33 North Dearborn Street
21st Floor
Chicago, Illinois 60602
(312) 346-3191
Firm I.D. 108