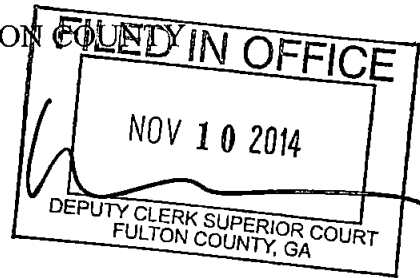


IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA



DAVID KENT SCHILLING, as Executor
of the Estate of ADRIENNE MARIE
SCHILLING, deceased, and DAVID KENT
SCHILLING, as surviving spouse of
ADRIENNE MARIE SCHILLING,

Plaintiff,

CIVIL ACTION FILE

v.

NO. 2014CV253712

NORTH FULTON MEDICAL CENTER,
INC., a Georgia corporation, d/b/a NORTH
FULTON REGIONAL HOSPITAL;
GARRY E. SIEGEL, M.D., P.C.; GARRY E.
SIEGEL, M.D.; GEORGIA UROLOGY, P.A.;
and HARRY RUTLAND, M.D.,

Defendants.

**COMPLAINT FOR MEDICAL MALPRACTICE
AND WRONGFUL DEATH**

COMES NOW David Kent Schilling, as Executor of the Estate of Adrienne Marie Schilling, deceased, and as surviving spouse of Adrienne Marie Schilling, Plaintiff above named, and hereby brings this cause of action against North Fulton Medical Center, Inc., a Georgia corporation, d/b/a North Fulton Regional Hospital; Garry E. Siegel, M.D., P.C.; Garry E. Siegel, M.D.; Georgia Urology, P.A.; and Harry Rutland, M.D. (collectively and separately referred to as "Defendant", "Defendants" or specifically), jointly and severally, and shows as follows:

**JURISDICTIONAL FACTS AND
RELATIONSHIP OF THE PARTIES**

1. At all times material hereto, plaintiff, David Kent Schilling, was a resident of Roswell, Fulton County, Georgia.

2. At all times material hereto, David Kent Schilling and Adrienne Marie Schilling (hereinafter “decedent” or “Mrs. Schilling”) were husband and wife, having been lawfully married on July 29, 2000.

3. Mrs. Schilling died on June 19, 2014 in Fulton County, Georgia.

4. On or about August 25, 2014, David Kent Schilling was appointed as Executor of the Estate of Adrienne Marie Schilling as recorded in Letter Testamentary Book 234, Page 252, Fulton County, Georgia. A copy of the Letters Testamentary is attached hereto as **Exhibit A**.

5. At all times material hereto, the defendant, North Fulton Medical Center, Inc. was a Georgia corporation doing business as North Fulton Regional Hospital (hereinafter “North Fulton Regional Hospital”) and service of the Summons and this Complaint may be made upon its Registered Agent, CT Corporation System, 1201 Peachtree Street, NE, Suite 1240, Atlanta, Georgia 30361.

6. At all times material hereto, the defendant, Garry E. Siegel, M.D., P.C. was a professional corporation formed and operating under the laws of the State of Georgia with its principal place of business in Fulton County, Georgia. Counsel for Defendant Garry E. Siegel, M.D., P.C., Wayne D. McGrew, III, Esq., Carlock, Copeland & Stair, LLP, P.O. Box 56887, Atlanta, Georgia 30343-0887, will acknowledge service of the Summons and Complaint on its behalf.

7. At all times material hereto, the defendant, Garry E. Siegel, M.D. (hereinafter “Dr. Siegel”), was a licensed physician who specializes in obstetrics and gynecology and is licensed to practice medicine under the laws of the State of Georgia. Counsel for Defendant Garry E. Siegel, M.D., Wayne D. McGrew, III, Esq., Carlock, Copeland &

Stair, LLP, P.O. Box 56887, Atlanta, Georgia 30343-0887, will acknowledge service of the Summons and Complaint on his behalf.

8. Defendant Dr. Siegel was, at all relevant times to his action, an employee and/or agent of the Defendant Garry E. Siegel, M.D., P.C.

9. At all times material hereto, the defendant, Georgia Urology, P.A. was a professional corporation formed and operating under the laws of the State of Georgia with its principal place of business in Henry County, Georgia and service of the Summons and this Complaint may be made upon its Registered Agent, Margaret Philmon, 1930 Brannan Road, McDonough, Georgia 30253.

10. At all times material hereto, the defendant, Harry Rutland, M.D. (hereinafter "Dr. Rutland"), was a licensed physician who specializes in urology and is licensed to practice medicine under the laws of the State of Georgia. Dr. Rutland may be personally served as provided by law.

11. Defendant Dr. Rutland was, at all relevant times to his action, an employee and/or agent of the Defendant Georgia Urology, P.A.

12. At all times material hereto, the defendants resided, practiced, were domiciled in and/or were citizens of and/or had their principal places of business in Fulton County, Georgia.

13. Venue is appropriate in Fulton County, Georgia as all the defendants or any one or more of them, resided and/or practiced and/or conducted business in such county and state.

14. All conditions precedent have occurred or have been performed.

FACTS GIVING RISE TO THIS LITIGATION

15. On April 26, 2014, the decedent presented to the emergency room of North Fulton Regional Hospital complaining of right lower quadrant abdominal pain for the past four (4) days which was progressively getting worse. Mrs. Schilling provided the emergency room physician with a history of uterine fibroids.

16. A CT scan was performed on the same day and revealed a markedly enlarged uterus due to a round hyperdense lesion which was consistent with a large fibroid measuring 9 cm and another possible fibroid measuring 6 cm. This information was relayed to the decedent's OB/GYN, Dr. Siegel.

17. As the decedent's treating gynecologist, prior to May 8, 2014, Dr. Siegel was fully aware that the decedent had had previous extensive abdominal surgery which included a cesarean delivery in 1978, a cesarean delivery in 1980, and a left oophorectomy in 1999. Consequently, as a board certified OB/GYN, Dr. Siegel knew or should have known that patients such as Mrs. Schilling, with a history of repeated cesarean sections, had a significantly higher chance of organ adhesions in the umbilical area. Despite this, before May 8, 2014, Dr. Siegel recommended, and the decedent agreed to undergo, a laparoscopic assisted vaginal hysterectomy.

18. On May 8, 2014, the decedent underwent a laparoscopic assisted vaginal hysterectomy by Dr. Siegel at which time she was found to have an extremely enlarged uterus, approximately 14 week size, and no adnexal masses.

19. During the procedure, which included a right salpingo-oophorectomy and lysis of adhesions, the decedent was found to have significant adhesions to the left lower quadrant which required resection.

20. During the early dissection and mobilization of the uterus, Dr. Siegel lacerated the left lateral superior bladder wall. As a result of this injury, he requested the assistance of Dr. Rutland, a urologist.

21. Dr. Rutland observed Dr. Siegel close the bladder laceration and upon testing, noticed that a small contained leak was found. At this time, Dr. Siegel placed additional sutures at which time the bladder closure was found to be sufficiently tight.

22. As Dr. Siegel proceeded with surgery, it was noted that the decedent's uterus was abnormally large and a mini-laparotomy was necessary to remove the uterus.

23. On May 8, 2014, at approximately 2:20 p.m., an x-ray of the abdomen was performed at the request of Dr. Siegel. The clinical indication for the x-ray was "foreign body". The x-ray revealed an excessive amount of air present within the pelvis.

24. The decedent was discharged from North Fulton Regional Hospital after receiving two (2) units of blood on May 10, 2014.

25. On May 13, 2014, at approximately 10:00 a.m., the decedent returned to North Fulton Regional Hospital's emergency room with a chief complaint of severe abdominal pain. She complained of vaginal bleeding and increased lower abdominal pain which was "10/10" in the last 24 hours, fever, anorexia, nausea, weakness and two falls. Upon examination, she had tachycardia 137, blood pressure of 105/66 and a distended and generally tender abdomen. Her fever was 103.6 at 10:17 a.m. Dr. Siegel was contacted at 10:37 a.m. and he recommended admission. At this time, pursuant to orders from Dr.

Stephen Grant, an emergency room physician, antibiotics were administered intravenously.

26. The decedent was seen by Dr. Siegel at 12:44 p.m. at which time he suspected a possible post-operative pelvic infection and cuff cellulitis. Dr. Siegel ordered a CT scan of the abdomen and pelvis with oral and IV contrast at 4:16 p.m. During this time, the decedent had persistent tachycardia.

27. The CT scan ordered by Dr. Siegel was cancelled at 7:15 p.m. due to lack of IV access for contrast media. At 7:29 p.m., Dr. Siegel rescheduled the CT scan of the abdomen and pelvis for the next day due to lack of IV access and the decedent's emesis of contrast material. During this period of time and throughout the evening of May 13, 2014, the decedent was treated with a broad spectrum of antibiotics.

28. By the early morning hours of May 14, 2014, the decedent was lethargic, complained of nausea and vomiting and laboratory tests in the morning showed mild to severe anemia, high platelet count as well as high bands.

29. At approximately 8:45 a.m., Dr. Siegel once again saw the decedent, suspected a bowel injury and noted that decedent was to have a CT scan.

30. At approximately 9:16 a.m. when the CT scan was to be performed, the radiologist noted that the decedent looked extremely ill and septic. He called the nurse and the decedent was transferred immediately after completing the study to the pre-operative area where she arrived at 9:26 a.m. By that time, her condition had deteriorated and she sustained cardiac arrest. A "Code Blue" was called at 9:45 a.m. and CPR was initiated. The decedent was transferred to the OR at 10:03 a.m. in septic shock with symptoms of acute abdomen. At this time, Dr. Mark Middleton performed an

exploratory laparotomy, which revealed a large pelvic abscess secondary to iatrogenic hole in the sigmoid colon, fecal peritonitis, and a retained laparotomy sponge in the right lower quadrant near the base of the cecum. There was also approximately 2,500 cc's of feculent material in the decedent's lower abdomen. At that time, the decedent underwent exploratory laparotomy with sigmoid colectomy and evacuation of the pelvic abscess. Thereafter, she was transferred to the ICU on assisted controlled ventilation.

31. The decedent experienced significant septic shock and developed multi-organ system failure secondary to sepsis. She also developed hypoxic ischemic encephalopathy causing irreversible brain damage. She progressively deteriorated as a result of her multiple organ failure and eventually died on June 19, 2014.

COUNT I

CLAIM FOR DAMAGES AGAINST GARRY E. SIEGEL, M.D.

32. Plaintiff adopts and re-alleges all previous paragraphs as if fully set forth herein and further states:

33. At all times material hereto, Dr. Siegel, undertook the care and treatment of the decedent such that a doctor/patient relationship existed; and in undertaking such care and treatment of the decedent, Dr. Siegel owed a duty to the decedent to provide that level of skill, care, diagnosis and treatment which, in light of all relevant circumstances, is and was recognized as acceptable and appropriate by reasonably prudent similar healthcare providers.

34. Notwithstanding the duties undertaken, Dr. Siegel, breached these duties in one or more of the following ways:

- a. by performing a laparoscopic hysterectomy knowing that as a result of previous surgeries, the decedent had significant high risk of adhesions which would result in complications during the laparoscopic procedure;
- b. failing to recognize and/or inspect to make sure that decedent's colon was not injured given the dissection necessary in the left lower quadrant and morcellation;
- c. leaving a laparoscopic sponge in during surgical operation;
- d. failing to recognize the signs of sepsis and request a surgical consultation on May 13, 2014;
- e. rescheduling the CT scan with contrast to the morning of May 14, 2014 despite the decedent's deteriorating condition; and
- f. allowing marked delay in treatment.

35. As a direct, proximate and foreseeable result of the negligence of Dr. Siegel, the decedent died.

36. As a direct, proximate and foreseeable result of Dr. Siegel's negligent breaches of his duty to exercise reasonable care and failure to satisfy the appropriate standard of care as alleged herein, decedent suffered bodily injury, pain and suffering, and mental anguish.

37. The allegations of fact regarding negligence and causation are outlined in the Affidavit of Kenneth B. Deck, M.D., FACS which is attached hereto as **Exhibit B**. and incorporated herein by reference as required by O.C.G.A. §9-11-9.1.

38. Wherefore, the Plaintiff, David Kent Schilling, as Executor of the Estate of Adrienne Marie Schilling, and as surviving spouse of Adrienne Marie Schilling, demands

judgment for compensatory damages for a sum in excess of \$10,000.00, jointly and severally, of and from said defendant and the other defendants named herein, plus costs.

COUNT II

CLAIM FOR DAMAGES AGAINST GARRY E. SIEGEL, M.D., P.C.

39. The Plaintiff adopts and re-alleges paragraphs 1-38 as if fully set forth herein and states:

40. At all times material hereto, Dr. Siegel was the agent, servant and/or employee of Defendant Garry E. Siegel, M.D., P.A. and was acting in the course and scope of said employment/agency at all times while he provided care and treatment to the decedent.

41. Consequently, pursuant to doctrine of *respondeat superior* the Defendant Garry E. Siegel, M.D., P.A. is liable to Plaintiff for any and all damages attributable to the negligent acts and/or omissions of Dr. Siegel.

42. As a direct, proximate and foreseeable result of said defendant's negligent breaches of its duty to exercise reasonable care and failure to satisfy the appropriate standard of care as alleged herein, decedent suffered bodily injury, pain and suffering, and mental anguish.

43. The allegations of fact regarding negligence and causation are outlined in the Affidavit of Kenneth B. Deck, M.D., FACS which is attached hereto as **Exhibit B**. and incorporated herein by reference as required by O.C.G.A. §9-11-9.1.

44. Wherefore, the Plaintiff, David Kent Schilling, as Executor of the Estate of Adrienne Marie Schilling, and as surviving spouse of Adrienne Marie Schilling, demands judgment for compensatory damages for a sum in excess of \$10,000.00, jointly and severally, of and from said defendant and the other defendants named herein, plus costs.

COUNT III

CLAIM FOR DAMAGES AGAINST HARRY RUTLAND, M.D.

45. The Plaintiff adopts and re-alleges paragraphs 1-44 as if fully set forth herein and states:

46. At all times material hereto, Dr. Rutland undertook the care and treatment of the decedent such that a doctor/patient relationship existed; and in undertaking such care and treatment of the decedent, Dr. Rutland owed a duty to the decedent to provide that level of skill, care, diagnosis and treatment which, in light of all relevant circumstances, is and was recognized as acceptable and appropriate by reasonably prudent similar healthcare providers.

47. Notwithstanding the duties undertaken, Dr. Rutland, breached these duties in one or more of the following ways:

- a. by failing to properly examine the patient to determine that no additional damage had been done by Dr. Siegel during the hysterectomy; and
- b. failing to perform an examination of the decedent before her discharge from North Fulton Regional Hospital on May 10, 2014.

48. As a direct, proximate and foreseeable result of the negligence of Dr. Rutland, the decedent died.

49. As a direct, proximate and foreseeable result of Dr. Rutland's negligent breaches of his duty to exercise reasonable care and failure to satisfy the appropriate standard of care as alleged herein, decedent suffered bodily injury, pain and suffering, and mental anguish.

50. The allegations of fact regarding negligence and causation are outlined in the Affidavit of Kenneth B. Deck, M.D., FACS which is attached hereto as **Exhibit B.** and incorporated herein by reference as required by O.C.G.A. §9-11-9.1.

51. Wherefore, the Plaintiff, David Kent Schilling, as Executor of the Estate of Adrienne Marie Schilling, and as surviving spouse of Adrienne Marie Schilling, demands judgment for compensatory damages for a sum in excess of \$10,000.00, jointly and severally, of and from said defendant and the other defendants named herein, plus costs.

COUNT IV

CLAIM FOR DAMAGES AGAINST GEORGIA UROLOGY, P.A.

52. The Plaintiff adopts and re-alleges paragraphs 1-51 as if fully set forth herein and states:

53. At all times material hereto, Dr. Rutland was the agent, servant and/or employee of Defendant Georgia Urology, P.A. and was acting in the course and scope of said employment/agency at all times while he provided care and treatment to the decedent.

54. Consequently, pursuant to doctrine of *respondeat superior* the Defendant Georgia Urology, P.A. is liable to Plaintiff for any and all damages attributable to the negligent acts and/or omissions of Dr. Rutland.

55. As a direct, proximate and foreseeable result of said defendant's negligent breaches of its duty to exercise reasonable care and failure to satisfy the appropriate standard of care as alleged herein, decedent suffered bodily injury, pain and suffering, and mental anguish.

56. The allegations of fact regarding negligence and causation are outlined in the Affidavit of Kenneth B. Deck, M.D., FACS which is attached hereto as **Exhibit B**. and incorporated herein by reference as required by O.C.G.A. §9-11-9.1.

57. Wherefore, the Plaintiff, David Kent Schilling, as Executor of the Estate of Adrienne Marie Schilling, and as surviving spouse of Adrienne Marie Schilling, demands judgment for compensatory damages for a sum in excess of \$10,000.00, jointly and severally, of and from said defendant and the other defendants named herein, plus costs.

COUNT V

CLAIM FOR DAMAGES AGAINST NORTH FULTON MEDICAL CENTER, INC., d/b/a NORTH FULTON REGIONAL HOSPITAL

58. The Plaintiff adopts and re-alleges paragraphs 1-57 as if fully set forth herein and states:

59. The Defendant, North Fulton Regional Hospital, is a general and surgical hospital comprised of over 190 beds. It is accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO). The Defendant, North Fulton Regional Hospital, had and undertook the duty to provide medical care and services in accordance with that level of care which is recognized and acceptable and appropriate by reasonably prudent similar health care providers in the same or other similar communities and undertook to provide said medical care through its residents, registered nurses, nurse practitioners, laboratory technicians and other non-physician health care providers all of which were agents, employees and/or servants of the Defendant North Fulton Regional Hospital.

60. At all times material hereto, the aforementioned individuals were acting in the course and scope of said agency/employment and within the scope of said agency

employment when they provided care and treatment to Mrs. Schilling. Consequently, pursuant to the doctrines of *respondeat superior* and/or actual, apparent and/or ostensible agency, the Defendant North Fulton Regional Hospital is liable to Plaintiff for any and all damages attributable to the negligent acts and/or omissions of said nurses, nurse practitioners, licensed practical nurses, laboratory technicians and other non-physician health care professionals and personnel.

61. Notwithstanding the duties undertaken, Defendant North Fulton Regional Hospital breached those duties in each of the following ways:

- a. failing to timely obtain diagnostic tests to assess decedent's condition;
- b. failing to recognize decedent's condition as life threatening;
- c. failing to administer proper and timely treatment;
- d. failing to appreciate decedent's high risk for infection;
- e. failing to identify the risk and need for intervention;
- f. failing to recognize decedent's prior surgery as a possible source of infection;
- g. negligently and/or carelessly failing to appropriately monitor, manage, treat, evaluate, diagnose and assess decedent's condition;
- h. negligently and/or carelessly failing to recognize sepsis;
- i. negligently and/or carelessly failing to conduct a sponge count before, during or after the surgery of May 8, 2014 thereby leaving a laparotomy pad in the decedent;
- j. failing to recognize the deteriorating condition of the decedent on May 13, 2014 and waiting almost 12 hours to perform a CT scan on the morning of May 14, 2014; and

k. failing to consult with an intensivist and/or obtain a surgical consultation.

62. As a direct, proximate and foreseeable result of said defendant's negligent breaches of its duty to exercise reasonable care and failure to satisfy the appropriate standard of care as alleged herein, decedent suffered bodily injury, pain and suffering, and mental anguish.

63. The allegations of fact regarding negligence and causation are outlined in the Affidavit of Kenneth B. Deck, M.D., FACS which is attached hereto as **Exhibit B.** and incorporated herein by reference as required by O.C.G.A. §9-11-9.1.

64. Wherefore, the Plaintiff, David Kent Schilling, as Executor of the Estate of Adrienne Marie Schilling, and as surviving spouse of Adrienne Marie Schilling, demands judgment for compensatory damages for a sum in excess of \$10,000.00, jointly and severally, of and from said defendant and the other defendants named herein, plus costs.

COUNT VI

WRONGFUL DEATH

65. The Plaintiff adopts and re-alleges paragraphs 1-64 as if fully set forth herein and states:

66. The allegations of fact regarding negligence and causation are outlined in the Affidavit of Kenneth B. Deck, M.D., FACS which is attached hereto as **Exhibit B.** and incorporated herein by reference as required by O.C.G.A. §9-11-9.1.

67. Plaintiff seeks to recover of and from said defendants, jointly and severally, damages for the full value of Adrienne Marie Schilling's life including, but not limited to, her loss of future earnings which claim is valued at an amount not less than \$10,000.00.

COUNT VII

LOSS OF CONSORTIUM

68. The Plaintiff adopts and re-alleges paragraphs 1-67 as if fully set forth herein and states:

69. The allegations of fact regarding negligence and causation are outlined in the Affidavit of Kenneth B. Deck, M.D., FACS which is attached hereto as **Exhibit B** and incorporated herein by reference as required by O.C.G.A. §9-11-9.1.

70. As a direct, proximate and foreseeable result of the defendants' negligence, Plaintiff David Keith Schilling, husband of the decedent, was caused to be deprived of his wife's services, comfort, society, and suffered loss of consortium, which claim is valued at an amount not less than \$10,000.00.

COUNT VIII

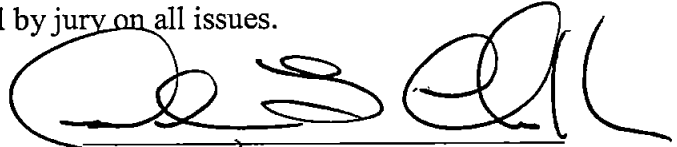
EXEMPLARY DAMAGES

71. The Plaintiff adopts and re-alleges paragraphs 1-70 as if fully set forth herein and states:

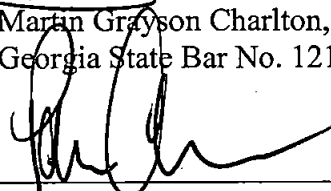
72. Plaintiff shows that the defendants' actions, as alleged herein, reflect willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would raise the presumption of conscious indifference to consequences, thereby entitling Plaintiff to exemplary damages in an amount to be determined by a jury at trial.

DEMAND FOR JURY TRIAL

73. Plaintiff hereby demands a trial by jury on all issues.



Martin Grayson Charlton, Esq.
Georgia State Bar No. 121590



Patricia Sue Glover, Esq.
Georgia State Bar No. 298035

CHARLTON & GLOVER
87 Vickery Street
Roswell, GA 30075
(770) 993-1005 (Telephone)
(770) 993-9672 (Fax)
Email: mgc@charltonglover.com

Exhibit A

IN THE PROBATE COURT
COUNTY OF FULTON
STATE OF GEORGIA

IN RE: ESTATE OF)

Adrienne Marie Schilling a/k/a)

Addy Marie Schilling,)

DECEASED)

ESTATE NO. PC-2014-002226

LETTERS TESTAMENTARY
(Relieved of Filing Returns)

By Pinkie T. Toomer, Judge of the Probate Court of the above County.

KNOW ALL WHOM IT MAY CONCERN:

At a regular term of Probate Court, the Last Will and Testament dated March 18, 2009 and Codicil(s) dated _____ of Adrienne Marie Schilling a/k/a Addy Marie Schilling, deceased, at the time of his or her death a resident of the above County was legally proven in Solemn form and was admitted to record by order, and it was further ordered that David Kent Schilling, named as Executor(s) in said Will, be allowed to qualify, and that upon so doing, Letters Testamentary be issued to such Executor(s).

NOW, THEREFORE, the said David Kent Schilling, having taken the oath of office and complied with all necessary prerequisites of the law, is/are legally authorized to discharge all the duties and exercise all powers of Executor(s) under the Will of said deceased, according to the Will and the law.

Given under my hand and official seal, the 25th day of August, 2014.

NOTE: The following must be signed if the Judge does not sign the original of this document:

Pinkie T. Toomer
Judge of the Probate Court

Issued by:

(Seal)

Lillian Scruggs
Clerk/Deputy Clerk of the Probate Court

CERTIFICATION OF COPY

Court Docketing Code W10 C.F. or W11 S.F.
Recorded in Letters of Testamentary Book 234 Page 252

This document consisting of 1 page(s) ~~back~~ is hereby certified to be a true copy of an original document on file in the Probate Court of Fulton County, Georgia. In witness whereof, I have hereto set my official signature and affixed the seal of the probate court, at the County and State aforesaid on August 25, 2014.

GPCSF 5

EXHIBIT

[1]

A

Lillian Scruggs
Lillian Scruggs, Clerk Fulton County Probate Court

Exhibit B

6. Mrs. Schilling underwent a laparoscopic-assisted vaginal hysterectomy, right salpingo-oophorectomy and lysis of adhesions. At the time of the procedure, Mrs. Schilling was found to have significant adhesions to the left lower quadrant which required dissection. During the procedure the patient developed a rent in her urinary bladder.

7. Mrs. Schilling had a consultation with Urologist Harry Rutland. Dr. Rutland observed Dr. Siegel closing the bladder rent defect and this was actually tested and a small continued leak was found. Additional sutures were placed and the bladder closure was found to be sufficiently tight. Mrs. Schilling's uterus was abnormally large and a mini-laparotomy was performed to remove the uterus, during which morcellation technique 8 was utilized. Interestingly enough, Mrs. Schilling had a hematocrit drop of 41% to 27% on post op day one that Dr. Siegel felt was more likely due to fluid resuscitation. Mrs. Schilling also had significant postoperative pain. She was discharged from the hospital after receiving two units of blood on or about May 10, 2014.

8. Mrs. Schilling returned to North Fulton Regional Hospital's emergency room five days after her surgery, on or about May 13, 2014, at approximately 10:00 a.m., with a chief complaint of severe abdominal pain. At approximately 11:30 a.m., Dr. Steven Grant recommended that Mrs. Schilling be admitted to the hospital. Mrs. Schilling was admitted to the hospital by Dr. Siegel, whose 12:52 p.m. admission notes reflected his impression that Mrs. Schilling was suffering from a possible postoperative pelvic infection and cuff cellulitis. Despite the fact that Mrs. Schilling was admitted into the hospital on May 13, 2014, no x-rays or CAT scans were performed until May 14, 2014. Mrs. Schilling's CAT scan was performed at 9:16 a.m. on May 14, 2014, and showed a large pelvic abscess as well as a retained surgical sponge.

9. Dr. Mark Middleton performed surgery on Mrs. Schilling at approximately 10:04 a.m. on May 14, 2014, at which time a large pelvic abscess was found secondary to an iatrogenic

hole in the sigmoid colon. The medical records also noted the existence of a retained laparotomy sponge. Mrs. Schilling had diffuse fecal peritonitis and sepsis. There was approximately 2500 cc of feculent material in Mrs. Schilling's lower abdomen as well as a large pelvic abscess. Mrs. Schilling underwent an exploratory laparotomy with sigmoid colectomy and evacuation of the pelvic abscess.

10. Mrs. Schilling returned to the operating room on May 16, 2014, for re-exploration, takedown of the splenic flexure and creation of a colostomy. Mrs. Schilling experienced significant septic shock and her prognosis was extremely guarded. Mrs. Schilling suffered obviously from severe sepsis, because she was treated very aggressively for sepsis including undergoing multiple consultations. She also developed multi-organ system failure secondary to sepsis.

11. Mrs. Schilling developed neurological symptoms and was in fact seen by neurology. She was also seen by GI for possible PEG placement.

12. Mrs. Schilling's condition continued to deteriorate as a result of her multiple organ failure.

13. Mrs. Schilling was unable to be resuscitated and eventually succumbed to her disease.

14. Mrs. Schilling suffered an injury to her sigmoid colon that went unnoticed and resulted in the fecal peritonitis, sepsis, etc.

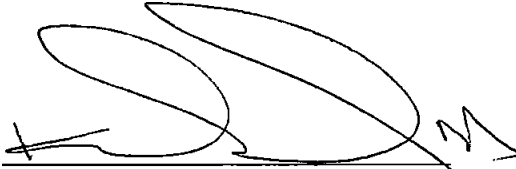
15. Based on my review of these records it is my opinion that the following constitutes a breach of the standard of care in the treatment of Mrs. Schilling:

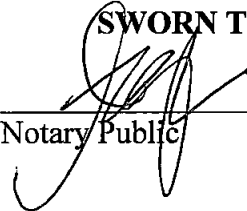
- a. the failure to recognize or even inspect to make sure that Mrs. Schilling's colon was not injured given the dissection necessary in the left lower quadrant and morcellation;
- b. leaving a laparoscopic sponge in during a surgical operation such as the one performed on Mrs. Schilling; and

c. the marked delay in treatment of Ms. Schilling from the time that she was admitted to the hospital on May 13, 2014, until she was finally operated on nearly 24 hours later.

16. It is my opinion within a reasonable degree of certainty that the aforementioned breaches of the standard of care resulted in the death of Mrs. Schilling.

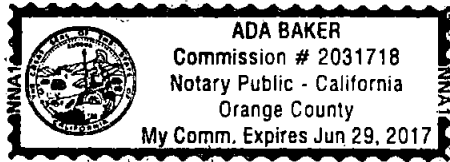
FURTHER AFFIANT SAYETH NOT.


Kenneth B. Deck, MD, FACS


Notary Public

SWORN TO AND SUBSCRIBED before me this 6TH day of NOVEMBER, 2014.
BY KENNETH B. DECK
My commission expires: JUNE 29, 2017

4844-3897-0910, v. 1



Curriculum Vitae
Kenneth Bernard Deck, MD, FACS

Date of Birth: April 20, 1948
Place of Birth: Cincinnati, OH
Citizenship: USA
Sex: Male
Marital Status: Married

Current Employment: South Orange County Surgical Medical Group
24411 Health Center Drive, Suite 350
Laguna Hills, CA, 92653

Business Address: South Orange County Surgical Medical Group
24411 Health Center Drive, Suite 350
Laguna Hills, CA, 92653
949-457-7900

Affiliated Institutions: Saddleback Memorial Medical Center
24451 Health Center Drive
Laguna Hills, CA 92653

The Surgery Center at Saddleback
24411 Health Center Drive, Suite 104
Laguna Hills, CA 92653

Saddleback Valley Outpatient Surgery
24302 Paseo de Valencia
Laguna Hills, CA 92653

Professional History:

College: University of Cincinnati, Cincinnati, Ohio
BS Biology-Biochemistry 1970
Multiple Honor Societies

Medical School: Ohio State College of Medicine
Columbus, Ohio
Honor Student
MD1973

Internship: Los Angeles County – University of Southern California Medical Center
General Surgery 1973-1974

Residencies: Los Angeles County – University of Southern California Medical Center
General Surgery 1974-1979
Resident of the Year Award 1978-1979

Fellowships: Good Samaritan Hospital, Los Angeles
Biliary and Breast Surgery 1974-1975
Los Angeles County – University of Southern California Medical
Center
Vascular Surgery 1979-1980

Licensure: California – G027094
BNDD – AD6058211

Board Certification: Diplomat American Board of Surgery
General Surgery
Certificate #025677
Initial Certification 11MAR1980
Recertification 23OCT1992
Recertification 05DEC2013

Professional Experience: Private Practice in Orange County
1980 – present

Professional Appointments:

Assistant Professor of Surgery LAC-USC Medical Center
1979-1986

1994 – present
Assistant Professor of Surgery
University of California Irvine

1986-1990
Medical Director, MemorialCare Breast Center at Saddleback

1982-1992, 1998 – 2002
Medical Executive Committee
Mission Regional Hospital

Medical Executive Committee
Saddleback Memorial medical Center
1990 – 2002

Chairman, Department of Surgery
Saddleback Memorial Medical Center
1994 – 1996

Director of Trauma
Mission Regional Hospital
1980 – 1982

Vice Chairman Department of Surgery
Irvine Regional Hospital and Medical Center
1995-1998

Course Director and Instructor Primary and Advanced
Laparoscopy Courses
Throughout the USA
1990 – 2003

Instructor and Guest Faculty Advanced Laparoscopy Courses in
Surgery and Gynecology
1991 – 2003

Director Laparoscopic Section
Saddleback Memorial Medical Center
1990 – 2004

Surgical director, MemorialCare Breast Center at Saddleback
1994-2002

MemorialCare Best Practice Surgical Representative
1996 – 2009

Director, Bloodless Surgery Program
Irvine Regional Hospital and Medical Center
1999 – 2009

Cancer Liaison for Orange County
American College of Surgeons
1990-present

Professional Societies:

American College of Surgeons
Fellow International College of Surgeons, US Section
Society of Laparoscopic Surgeons

Southern California Surgical Society
American Society of Breast Surgeons

Board of Directors:

Saddleback Valley Outpatient Surgery
Laguna Hills, CA

Physician Leadership Team

Monarch HealthCare

Associate Medical Director
Komen Foundation

Breast Cancer Survivors Support Group
Medical Director

Director of Breast Health Mammoth Hospital

Physician Leadership Board – Surgical Care Affiliates

Multiple Volunteer Societies including involvement with Katrina, Haiti, and Antigua Hospital in Guatemala

Lectures:

Lectured throughout the United States in areas of Breast Care, Breast Cancer, and Cancer Genetics.

Lectured in multiple Surgical Society Annual Meetings in the areas of Breast Cancer and Genetics.

Key Note Speaker at Tumor Boards throughout the United States

Publications:

Julian, T.B., Blumencranz, P., Deck, K., Whitworth, P., Berry, D.A., Berry, S.M., Rosenberg, A., Chagpar, A.B., Reintgen, D., Beitsch, P., Simmons, R., Saha, S., Mamounas, E.P., Giuliano, A., Novel Intraoperative Molecular Test for Sentinel Lymph Node Metastases in Patients With Early-Stage Breast Cancer. Journal of Clinical Oncology. American Society of Clinical Oncology. Volume 26. Number 20. July 10th, 2008.

Contributing Physician for the SWIPE-2 Trial Group: Bennett-Guerrero, E., Pappas, T.N., Koltun, W.A., Fleshman, J.W., Lin, M., Garg, J., Mark, D.B., Marcet, J.E., Remzi, F.H., George, V.V., Newland, K., Corey, G.R., for the SWIPE-2 Trial Group. Gentamicin-Collagen Sponge for Infection Prophylaxis in Colorectal Surgery. The New England Journal of Medicine. Article 10.1056/NEJMoa1000837. August, 4th, 2010.

Comparison of the MammaPrint 70-gene expression profile with clinical parameters in patients with breast cancer: findings from a US cohort. K. Deck¹; D. Kerlin²; J. Barone³; E. Rivera⁴; A. Garcia⁵; R. Sinha⁶; K. Yao⁷; R. Bender⁸; B. Nguyen⁹ 1. Saddleback Memorial Medical Center, Laguna Hills; 2. John Muir, Walnut Creek; 3. Sharp, San Diego; 4. Methodist Hospital, Houston; 5. USC Norris cancer hospital, Los Angeles; 6. Rockwood Clinic, Spokane; 7. North Shore University Health System, Chicago; 8. Agendia Inc, Irvine, CA; 9. Long Beach Memorial Health Care, Long Beach 2011 annual meeting of The American Society of Breast Surgeons.

Clinical Research: **Director of Research**
 South Orange County Surgical Medical Group, Inc.
 2006 - Present

Medical Director
 Alliance Research Centers
 2010 - Present

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

DAVID KENT SCHILLING, as Executor
of the Estate of ADRIENNE MARIE
SCHILLING, deceased, and DAVID KENT
SCHILLING, as surviving spouse of,
ADRIENNE MARIE SCHILLING,

Plaintiff,

CIVIL ACTION FILE

v.

NO. _____

NORTH FULTON MEDICAL CENTER,
INC., a Georgia corporation, d/b/a NORTH
FULTON REGIONAL HOSPITAL;
GARRY E. SIEGEL, M.D., P.C.; GARRY E.
SIEGEL, M.D.; GEORIGA UROLOGY, P.A.;
HARRY RUTLAND, M.D.,

Defendants.

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

NORTH FULTON MEDICAL CENTER, INC.
C/O Registered Agent, CT Corporation System
1201 Peachtree Street Northeast
Atlanta, GA 30361

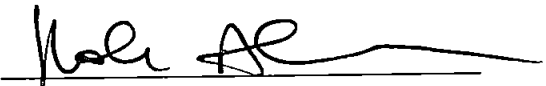
You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose names and address is:

Patricia S. Glover, Esq.
Martin Grayson Charlton, Esq.
CHARLTON & GLOVER, P.C.
87 Vickery Street
Roswell, GA 30075

an answer to the complaint which is herewith served upon you, within 30 days after the service of this summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in complaint.

This ____ day of November, 2014.

Cathelene Robinson
Clerk of Superior Court



Deputy Clerk

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

DAVID KENT SCHILLING, as Executor
of the Estate of ADRIENNE MARIE
SCHILLING, deceased, and DAVID KENT
SCHILLING, as surviving spouse of,
ADRIENNE MARIE SCHILLING,

Plaintiff,

CIVIL ACTION FILE

v.

NO. _____

NORTH FULTON MEDICAL CENTER,
INC., a Georgia corporation, d/b/a NORTH
FULTON REGIONAL HOSPITAL;
GARRY E. SIEGEL, M.D., P.C.; GARRY E.
SIEGEL, M.D.; GEORGIA UROLOGY, P.A.;
and HARRY RUTLAND, M.D.,

Defendants.

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

GARRY E. SIEGEL, M.D.
2500 Hospital Boulevard ~ Suite 410
Roswell, Georgia 30076.

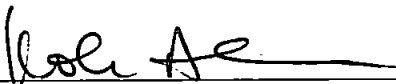
You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose names and address is:

Patricia S. Glover, Esq.
Martin Grayson Charlton, Esq.
CHARLTON & GLOVER, P.C.
87 Vickery Street
Roswell, GA 30075

an answer to the complaint which is herewith served upon you, within 30 days after the service of this summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in complaint.

This ____ day of November, 2014.

Cathelene Robinson
Clerk of Superior Court



Deputy Clerk

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

DAVID KENT SCHILLING, as Executor
of the Estate of ADRIENNE MARIE
SCHILLING, deceased, and DAVID KENT
SCHILLING, as surviving spouse of,
ADRIENNE MARIE SCHILLING,

Plaintiff,

CIVIL ACTION FILE

v.

NO. _____

NORTH FULTON MEDICAL CENTER,
INC., a Georgia corporation, d/b/a NORTH
FULTON REGIONAL HOSPITAL;
GARRY E. SIEGEL, M.D., P.C.; GARRY E.
SIEGEL, M.D.; GEORGIA UROLOGY, P.A.;
and HARRY RUTLAND, M.D.,

Defendants.

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

GARRY E. SIEGEL, M.D., P.C.
C/O Registered Agent, Garry E. Siegel
2500 Hospital Boulevard ~ Suite 410
Roswell, Georgia 30076.


You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose names and address is:

Patricia S. Glover, Esq.
Martin Grayson Charlton, Esq.
CHARLTON & GLOVER, P.C.
87 Vickery Street
Roswell, GA 30075

an answer to the complaint which is herewith served upon you, within 30 days after the service of this summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in complaint.

This ____ day of November, 2014.

Cathelene Robinson
Clerk of Superior Court



Deputy Clerk

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

DAVID KENT SCHILLING, as Executor
of the Estate of ADRIENNE MARIE
SCHILLING, deceased, and DAVID KENT
SCHILLING, as surviving spouse of,
ADRIENNE MARIE SCHILLING,

Plaintiff,

CIVIL ACTION FILE

v.

NO. _____

NORTH FULTON MEDICAL CENTER,
INC., a Georgia corporation, d/b/a NORTH
FULTON REGIONAL HOSPITAL;
GARRY E. SIEGEL, M.D., P.C.; GARRY E.
SIEGEL, M.D.; GEORGIA UROLOGY, P.A.;
and HARRY RUTLAND, M.D.,

Defendants.

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

Georgia Urology, P.A.
C/O Registered Agent, Margaret Philmon
1930 Brannan Road
McDonough, Georgia 30253

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose names and address is:

Patricia S. Glover, Esq.
Martin Grayson Charlton, Esq.
CHARLTON & GLOVER, P.C.
87 Vickery Street
Roswell, GA 30075

an answer to the complaint which is herewith served upon you, within 30 days after the service of this summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in complaint.

This ____ day of November, 2014.

Cathelene Robinson
Clerk of Superior Court

A handwritten signature in black ink, appearing to read 'Cathelene Robinson', written over a horizontal line.

Deputy Clerk

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

DAVID KENT SCHILLING, as Executor
of the Estate of ADRIENNE MARIE
SCHILLING, deceased, and DAVID KENT
SCHILLING, as surviving spouse of,
ADRIENNE MARIE SCHILLING,

Plaintiff,

CIVIL ACTION FILE

v.

NO. _____

NORTH FULTON MEDICAL CENTER,
INC., a Georgia corporation, d/b/a NORTH
FULTON REGIONAL HOSPITAL;
GARRY E. SIEGEL, M.D., P.C.; GARRY E.
SIEGEL, M.D.; GEORGIA UROLOGY, P.A.;
and HARRY RUTLAND, M.D.,

Defendants.

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

Harry Rutland, M.D.
1930 Brannan Road
McDonough, Georgia 30253

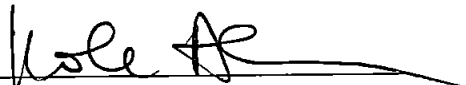
You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose names and address is:

Patricia S. Glover, Esq.
Martin Grayson Charlton, Esq.
CHARLTON & GLOVER, P.C.
87 Vickery Street
Roswell, GA 30075

an answer to the complaint which is herewith served upon you, within 30 days after the service of this summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in complaint.

This ____ day of November, 2014.

Cathelene Robinson
Clerk of Superior Court



Deputy Clerk