

Denver District Court Denver County, Colorado 1437 Bannock Street, Rm. 256 Denver, CO 80202	DATE FILED: November 15, 2016 6:34 AM FILING ID: 18AB2FB17999A CASE NUMBER: 2016CV34214 ▲ COURT USE ONLY ▲
Plaintiff: DOUGLAS GREER, an individual v. Defendants: KAISER FOUNDATION HEALTH PLAN OF COLORADO, a Colorado nonprofit corporation COLORADO PERMANENTE MEDICAL GROUP, P.C., a Colorado corporation, and David Litoff, M.D., an individual.	
Attorney: Corey A. Holton, Esq. Amy E Gaiennie, Esq. Name: The Gaiennie Law Office, LLC Address: 3801 E Florida Avenue, Suite 310 Denver, Colorado 80210 Phone Number: (303)455-5030 Fax Number: (303)455-0805 E-mail: Corey@amyglaw.com Atty Reg. No: 47440 (Corey A. Holton) 24561 (Gaiennie)	Case Number: Courtroom:
COMPLAINT FOR DAMAGES	

Plaintiff, Douglas Greer, by and through his attorneys, submits the following Complaint for Damages:

I. PARTIES, JURISDICTION AND VENUE

1. Plaintiff was, at all relevant times, a resident of the State of Colorado.
2. At all times relevant hereto, Defendant Kaiser Foundation Health Plan of Colorado ("KFHP") was a Colorado corporation doing business in Colorado.
3. At all times relevant hereto, Defendant Colorado Permanente Medical Group, P.C. ("CPMG") was a Colorado professional corporation formed for the purpose of practicing medicine.
4. At all times relevant hereto, David Litoff, M.D. is a physician licensed to practice medicine in the State of Colorado.

5. This Court has personal and subject matter jurisdiction over this action pursuant to C.R.S. § 13-1-124(1)(a), (b), and (c).

6. Venue is proper in the City and County of Denver pursuant to Rule 98(c) because Defendant Kaiser Foundation Health Plan resides in the City and County of Denver.

II. GENERAL ALLEGATIONS

7. Plaintiff incorporates by reference paragraphs 1 through 6 as if fully set forth herein.

8. KFHP administers the Kaiser Permanente Medical Care Program, which provides members with integrated medical care arranged for by KFHP and provided by KFHP employees or affiliated health care providers.

9. KFHP operates over thirty medical offices in Colorado at which its members receive primary medical care, specialty care, outpatient surgical care, urgent care, radiology, laboratory and pharmacy services.

10. KFHP contracts with CPMG, which is an integrated group medical practice of physicians in primary care and specialty fields, to provide exclusive medical care to its members.

11. CPMG employs physicians to provide healthcare to members of the Kaiser Permanente Medical Care Program.

12. KFHP's medical offices are staffed by allied health providers such as nurses, physician's assistants, nurse practitioners, therapists, nurses, medical assistants, and pharmacists, all of whom are employed by KFHP.

13. David Litoff, M.D. ("Dr. Litoff") is an employee of CPMG.

14. David Litoff, M.D. is a shareholder of CPMG.

15. Dr. Litoff has been employed by CPMG since 1999.

16. Dr. Litoff has an active license to practice medicine in the State of Colorado.

17. Dr. Litoff practices medicine at the Kaiser Permanente Rock Creek Medical Offices in Lafayette, Colorado.

18. Dr. Litoff is board certified in Ophthalmology by the American Board of Ophthalmologists.

19. Dr. Litoff performs cataract surgery as part of his medical practice.
20. On November 19, 2014, Plaintiff Douglas Greer presented to the Kaiser Permanente Rock Creek Medical Offices for Intraocular Lens ("IOL") replacement surgery to be performed by Dr. Litoff.
21. Dr. Litoff was to remove Mr. Greer's existing multifocal IOL in his right eye and replace it with a new IOL.
22. Dr. Litoff performed IOL replacement surgery on Mr. Greer on November 19, 2014.
23. Dr. Greer failed to remove remnants from the existing IOL before inserting the new IOL.
24. Dr. Litoff inserted a multifocal IOL in Mr. Greer's right eye.
25. Dr. Litoff inserted this multifocal IOL on top of remnants from the existing IOL.
26. On December 19, 2014, Mr. Greer presented to Kaiser Permanente Rock Creek Medical Offices complaining of blurry vision and seeing streaks of white glare.
27. On December 19, 2014, Lisa Petersen, OD noted that Mr. Greer had increased intraocular pressure.
28. Mr. Greer began experiencing headaches immediately following the November 19, 2014 surgery.
29. On January 7, 2015, Mr. Greer presented to Dr. Litoff for a follow-up visit. Dr. Litoff noted that Mr. Greer complained of constant glare in his right eye and seeing streaks of white. Dr. Litoff made a note in Mr. Greer's chart that the IOL may be slightly decentered and a piece of the existing IOL remained.
30. On January 29, 2015, Mr. Greer presented to Rajiv Kumar, MD at Denver Eye Surgeons for a second opinion on his vision issues.
31. Dr. Kumar noted that Mr. Greer had increased intraocular pressure and noted that there was a small remnant of an existing IOL and haptic present inside of Mr. Greer's capsular bag.
32. Mr. Greer presented to Richard K. Stiverson, MD, another CPMG provider on February 4, 2015.

33. Dr. Stiverson examined Mr. Greer and noted that the problem with Mr. Greer's IOL is likely a result of the IOL sitting on top of retained fragments from the existing IOL.

34. Dr. Stiverson suggested that Mr. Greer undergo a second surgery in which Dr. Stiverson would remove the IOL that was implanted by Dr. Litoff, remove the retained fragments from the original IOL, and implant a new IOL.

35. Mr. Greer underwent a second surgery to remove retained fragments of the IOL which Dr. Litoff failed to remove.

**III. FIRST CLAIM FOR RELIEF
(Medical Negligence – Defendant David Litoff, M.D.)**

36. Plaintiff incorporates by reference paragraphs 1 through 35 as if fully set forth herein.

37. Plaintiff was under the care and treatment of Defendant David Litoff, M.D. in 2014 and 2015.

38. With respect to his care and treatment of Plaintiff, Defendant Dr. Litoff owed Plaintiff a duty to exercise that degree of care, skill, caution, diligence, and foresight exercised and expected of physicians in similar situations.

39. Defendant Dr. Litoff deviated from the standard of care required and was negligent in his care and treatment of Plaintiff including, but not limited to, the following:

- a. Failing to properly treat, evaluate, diagnose, monitor, and follow the care and treatment of Douglas Greer;
- b. Failing to properly, timely and adequately diagnose and treat Douglas Greer's medical condition;
- c. Failing to properly remove remnants of Douglas Greer's existing intraocular lens before inserting a new lens;
- d. Failing to timely and appropriately diagnose and treat Douglas Greer's signs and symptoms of a retained intraocular lens fragment.

40. As a direct and proximate result of Defendant Dr. Litoff's negligence, Plaintiff has suffered injuries, damages and losses, including, but not limited to, significant and permanent vision loss and distorted vision, emotional distress, mental anguish, physical suffering and impairment of quality of life. His injuries have been and will continue to be disabling, incapacitating and humiliating. The injuries he has suffered are permanent. Plaintiff has been forced to spend monies, and will spend monies in the

future, for medicine, doctors' fees, prescriptions, hospital care, and medical procedures. Plaintiff has suffered a permanent loss of ability to enjoy a full, useful and normal life.

IV. SECOND CLAIM FOR RELIEF
(*Respondent Superior* and negligence - CPMG)

41. Plaintiff incorporates by reference paragraphs 1 through 40 as if fully set forth herein.

42. Defendant CPMG is responsible for the negligence of its employees and agents.

43. Upon information and belief, at all times relevant hereto, David Litoff, M.D. was an employee and/or agent of CPMG.

44. David Litoff, M.D. was acting within the course and scope of his employment and/or agency with CPMG when he evaluated, diagnosed, and treated Douglas Greer.

45. CPMG employees, including David Litoff, M.D., owed Douglas Greer a duty to ensure that Douglas Greer was properly and appropriately evaluated, diagnosed, and treated.

46. Physicians employed by CPMG, including David Litoff, M.D. owed Douglas Greer a duty to exercise that degree of care, skill, caution, diligence, and foresight exercised and expected of physicians in similar situations.

47. David Litoff, M.D., while acting in the course and scope of his employment of CPMG was negligent in the evaluation, diagnosis, and treatment of Douglas Greer.

48. As a direct and proximate result of the conduct of Defendant CPMG, acting through its agents and employees, as well as its direct negligence, Plaintiff has suffered injuries and damages more fully described above. Plaintiff has suffered injuries, damages and losses, including, but not limited to, significant and permanent vision loss and distorted vision, emotional distress, mental anguish, physical suffering and impairment of quality of life. His injuries have been and will continue to be disabling, incapacitating and humiliating. The injuries he has suffered are permanent. Plaintiff has been forced to spend monies, and will spend monies in the future, for medicine, doctors' fees, prescriptions, hospital care, and medical procedures. Plaintiff has suffered a permanent loss of ability to enjoy a full, useful and normal life.

IV. THIRD CLAIM FOR RELIEF
(*Respondent Superior* and negligence - KFHP)

49. Plaintiff incorporates by reference paragraphs 1 through 48 as if fully set forth herein.

50. Defendant KFHP is responsible for the negligence of its employees and agents.

51. Upon information and belief, at all times relevant hereto, David Litoff, M.D. was an employee and/or agent of KFHP.

52. David Litoff, M.D. was acting within the course and scope of his employment and/or agency with KFHP when he evaluated, diagnosed, and treated Douglas Greer.

53. KFHP employees, including David Litoff, M.D., owed Douglas Greer a duty to ensure that Douglas Greer was properly and appropriately evaluated, diagnosed, and treated.

54. Physicians employed by KFHP, including David Litoff, M.D. owed Douglas Greer a duty to exercise that degree of care, skill, caution, diligence, and foresight exercised and expected of physicians in similar situations.

55. David Litoff, M.D., while acting in the course and scope of his employment of KFHP was negligent in the evaluation, diagnosis, and treatment of Douglas Greer.

56. As a direct and proximate result of the conduct of Defendant KFHP, acting through its agents and employees, as well as its direct negligence, Plaintiff has suffered injuries and damages more fully described above. Plaintiff has suffered injuries, damages and losses, including, but not limited to, significant and permanent vision loss and distorted vision, emotional distress, mental anguish, physical suffering and impairment of quality of life. His injuries have been and will continue to be disabling, incapacitating and humiliating. The injuries he has suffered are permanent. Plaintiff has been forced to spend monies, and will spend monies in the future, for medicine, doctors' fees, prescriptions, hospital care, and medical procedures. Plaintiff has suffered a permanent loss of ability to enjoy a full, useful and normal life.

WHEREFORE, Plaintiff prays for judgment against the Defendants and for damages in an amount to be determined by the trier of fact, pre and post-judgment interest as allowed by law, expert witness fees, filing fees, deposition expenses, attorney's fees and for such other and further relief as this Court may deem appropriate, including all costs.

Respectfully submitted this 15th Day of November, 2016.

GAIENNIE LAW OFFICE, LLC

*A duly signed original is available at the
offices of Gaiennie Law Office, LLC*

/s/ Corey A. Holton

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