

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

2022-09-28 10:00  
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BEVERLY ARMSTRONG, INDIVIDUALLY AND  
AS HEIR TO ARIE D. ARMSTRONG, DECEASED;  
AND AS PERSONAL REPRESENTATIVE OF THE  
ESTATE OF ARIE D. ARMSTRONG,

Plaintiff

vs.

WALTER REED ARMY MEDICAL HOSPITAL,

Defendant

Case No: 22-cv-2724-GLS

Judge:

Complaint for Damages

JURY DEMAND

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**COMPLAINT**

This case is a wrongful death action. The plaintiff is Beverly Armstrong, individually as heir to the decedent, Arie D. Armstrong, and as the personal representative of the estate of Arie D. Armstrong (collectively "PLAINTIFFS"), brings this action under the Federal Tort Claims Act, 28 U.S.C. § 1346(b), 1402(b), 2401(b), and 2671-2680 ("FTCA") and Maryland's wrongful-death statute, codified at Cts. & Jud. Proc. §§ 3-901 to -904.

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over all causes of action asserted against the federal government pursuant to 28 U.S.C. § 1346. Additionally, this Court has jurisdiction over all other claims pursuant to 28 U.S.C. § 1367 because all of the claims arise from a common nucleus of operative facts that are so intertwined that they cannot be reasonably separated.

2. Venue is proper pursuant to 28 U.S.C. § 1402 because at all times relevant, all of the PLAINTIFFS resided in this district and all the wrongful acts and/or omissions complained herein occurred in this judicial district.

3. This complaint is filed timely. With certain exceptions, the three-year period for a wrongful-death action begins to run at the time of the decedent's death. *Geisz v. Greater Baltimore Medical Center*, 313 Md. 301, 322 (1988). Further, the statute mandates that "only one action under this subtitle lies in respect to the death of a person." Cts. & Jud. Proc. § 3-904(f).

## **PARTIES**

### **Plaintiffs and Decedent:**

3. Arie D. Armstrong ("Ms. Arie"), deceased, was at all times relevant to this claim a resident of the City of Washington, DC. However, she was a patient under the care of the defendant in Montgomery County, Maryland, at the time of her injury. Ms. Arie was a loving mother, grandmother, and great-grandmother. Ms. Arie was kind, smart and, and committed to socially just causes.

4. Beverly Armstrong ("Ms. Armstrong") is a natural person who is, and at all times relevant to this claim was, a resident of the District of Columbia. Ms. Armstrong is the daughter and is a proper personal representative and heir pursuant to Code of Civil Procedure § 337.60(a).

### **Defendant:**

5. The defendant is Walter Reed National Military Medical Center, a federal institution. Their address is 8901 Rockville Pike, Bethesda, MD 20889. It is formerly known as the National Naval Medical Center and colloquially referred to as the Bethesda Naval Hospital, Walter Reed, or Navy Med, is a United States' tri-service military medical center, located in the community of Bethesda, Maryland, near the headquarters of the National Institutes of Health.

### STATEMENT OF THE RELEVANT FACTS

6. This is a medical malpractice case. Arie D. Armstrong, deceased, died on October 20, 2019, at approximately 12:26am. Her death was premature.

7. The heir and personal representative filed a “Claim for Damage, Injury or Death” on October 19, 2021, notifying the Office of the Staff Judge Advocate Claims Office of her claim. That action was served as notice of an FTCA claim. *Drew v. United States*, 217 F.3d 193, 198 (4th Cir. 2000)

8. The Complaint is brought under the FTCA. Under the FTCA, Congress has waived the sovereign immunity of the United States, exposing it to tort liability for claims “for money damages . . . for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, ” so long as certain conditions are satisfied. 28 U.S.C. § 1346(b)(1); see *Ali v. Fed. Bureau of Prisons*, 552 U.S. 214, 217-18 (2008).

9. There is no Feres doctrine exception to the FTCA's waiver of sovereign immunity. Ms. Arie, the decedent, at the time of her injuries she was not a serviceman nor did her injuries arise out of or in the course of activity incident to service.”

10. The suit stems from a lack of treatment, misdiagnoses, and premature discharge from care personnel employed by Walter Reed National Military Medical Center (“Walter Reed”).

11. The Defendant, Walter Reed National Military Medical Center, caused Ms. Arie’s death by failing to provide adequate medical care and they repeatedly released her prior to getting her medically stable.

12. For three and a half years, Walter Reed not only failed to properly diagnose her, but in the last six months of her life, they failed to provide proper medical care for her. The last time in

which Ms. Arie was discharged from Walter Reed, she had an open wound that was not healing properly.

13. Two weeks prior to her death, Walter Reed discharged Ms. Arie from their care. However, they failed to provide instructions to the ambulance driver about her feeding tube. The daughter found the ambulance driver on the side of the road trying to assist Ms. Arie, who was choking. Ms. Arie had to be returned to the hospital.

14. This negligence claim includes the fact that life-sustaining actions were not taken.

15. After having several meetings with physicians, care coordinators, nurses, along with Ms. Beverly Armstrong and the decedent, Ms. Arie, it was understood that Ms. Arie and Ms. Armstrong wanted comprehensive efforts to prevent arrest in the event of a cardiac or pulmonary arrest occurs.

16. In fact, there were several “Maryland Medical Orders for Life-Sustaining Treatment (MOLST) that had been discussed. Each time there was a discussion, Ms. Arie and/or her daughter, Beverly Armstrong, signed the document.

17. Walter Reed had been the primary source of hospitalization and medical care for Ms. Arie, the decedent, over a three and a half year time period.

18. Ms. Arie was a competent adult who suffered from serious, but not a terminal illness. She had the right, with understanding and agreement by her family and her attending physicians, not to agree to a “DNR” or “do not recussitate “ request form that was offered on behalf of the Defendant.

19. Ms. Arie had a constitutional right of privacy which guarantees the individual the freedom to choose to accept or reject the intrusions of her bodily integrity. She accepted all life-sustaining medical treatment.



20. It is a well-established rule of general law, as binding upon the government as it is upon the medical profession at large, that it is the patient, not the physician, who ultimately decides if treatment, any treatment is to be given at all. *Canterbury v. Spence*, 464 F.2d 772 (D.C.Cir.), *cert. denied*, 409 U.S. 1064, 93 S. Ct. 560, 34 L. Ed. 2d 518 (1972).

21. The principle underlying *Canterbury v. Spence* is, simply, that a competent, mature patient has a right to be fully informed of the possible consequences of a course of treatment before she permits the medical ministrations to begin, and that the attending physicians are in breach of duty to the patient if they initiate treatment without the patient's informed consent.

22. The Defendant, a governmental entity, policy remains neutral when the issue of life support termination is present. The position of neutrality advances society's concern for the preservation of human life, the prevention of suicide, the protection of innocent third parties, and the integrity of medical ethics.

23. The defendant, Walter Reed, through its agents, breached the applicable standard of care by not discussing, getting permission, nor notifying the decedent or her family members of a “Maryland Medical Orders for Life-Sustaining Treatment (MOLST)” that changed her life-sustaining care from all comprehensive efforts to prevent arrest to “No CPR, Option B, Palliative and Supportive Care.”

24. This document was signed by Practitioner, John Lofrese. However, there is no indication, no signature, not a mention of a meeting nor witness to the acceptance of the terms of the agreement by the decedent nor her family.

25. There came a time in which Georgetown Hospital Center relied on that document.

26. On or about October 19, 2019, the paramedics, BLS Ambulance, were called to the home of the decedent, Ms. Arie. She was in distress and needed medical attention. The medical discharge envelope was provided to the team of paramedics.

27. Her daughter, Beverly Armstrong, followed the ambulance to the hospital. When she arrived, she was told that her mother had died. The hospital had relied upon the instructions as found inside of the discharge envelope from Walter Reed and that they did not provide life-sustaining treatment based on what was noted.

28. The daughter reviewed the documentation in which they had relied. She realized it was not correct. She and her mother had discussions with the team of doctors, nurses, care coordinators, etc. and had always signed the document stating their preferences. The corrected document should have been in her mother's medical file.

**FIRST CAUSE OF ACTION NEGLIGENCE – SURVIVOR CAUSE OF ACTION**

Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 2671 et seq.,  
(Against Defendants by Plaintiff Beverly Armstrong individually and as heir of Ms. Indie)

29. PLAINTIFF hereby re-allege and incorporate by reference each and every allegation contained above as if fully set forth in detail herein.

30. That the death of the late Arie D. Armstrong on October 20, 2019, was directly and proximately caused by the negligent actions of Defendant, Walter Reed Medical Center.

31. On October 20, 2019, and prior to her death, the foregoing cause of action arose. Since her death, Ms. Armstrong have served as representatives for ESTATE and is authorized as successor in interest with respect to their interest in the property that was damaged, lost or destroyed in this tragic incident, to pursue any and all legal claims for damages related thereto,

and to recover damages for expenses incurred related to medical and/or emergency services related to this incident.

32. Prior to Ms. Arie's death, Defendant acted negligently, carelessly, recklessly, and/or unlawfully acted and/or failed to act, including but not limited to failing to perform mandatory duties so as to cause the death of Ms. Arie.

33. As a consequence of Decedent's death, the Plaintiff and her other children suffered pain, grief, sorrow, anguish, stress, shock, and mental suffering already experienced and reasonably probable to be experienced for the rest of their lives.

34. As a direct result and proximate cause of the violations of the standards of care by the Defendant/Health Care Provider, United States of America, through its duly authorized agents at Walter Reed National Military Medical Center, Ms. Arie died prematurely.

35. As a further consequence of Decedent's death caused by Defendant, Plaintiff incurred expenses for funeral and burial, medical care and services for the injury that resulted in death.

35. As a further consequence of Decedent's death caused by Defendant, Plaintiff has incurred the loss of love, affection, companionship, care, protection, and guidance since the death and in the future.

**SECOND CAUSE OF ACTION NEGLIGENCE – SURVIVOR CAUSE OF ACTION**

Cts. & Jud. Proc. §§ 3-901 to -904

(Against Defendants by Plaintiff Beverly Armstrong individually and as heir of Ms. Indie)

36. PLAINTIFF hereby re-allege and incorporate by reference each and every allegation contained above as if fully set forth in detail herein.

37. That the death of the late Arie D. Armstrong on October 20, 2019, was directly and proximately caused by the negligent actions of Defendant, Walter Reed Medical Center.

38. Maryland's wrongful-death statute, codified at Cts. & Jud. Proc. §§ 3-901 to -904, "allows the decedent's beneficiaries or relatives to recover damages for loss of support or other benefits that would have been provided, had the decedent not died as a result of another's negligence." *Spangler v. McQuitty*, 449 Md. 33, 53 (2016).

39. "The purpose of the act is to compensate the families of the decedent, as opposed to the estate of the decedent." *Mummert v. Alizadeh*, 435 Md. 207, 219 (2013). Subject to exceptions that are not relevant to this appeal, wrongful-death actions may be filed by the spouse, the parents, or the children of the decedent. Cts. & Jud. Proc. § 9-304(a). Damages are divided among the spouse, parent, and child "in shares directed by the verdict." Cts. & Jud. Proc. § 3-904(c).

40. On October 20, 2019, and prior to her death, the foregoing cause of action arose. Since her death, Ms. Armstrong have served as representatives for ESTATE and is authorized as successor in interest with respect to their interest in the property that was damaged, lost or destroyed in this tragic incident, to pursue any and all legal claims for damages related thereto, and to recover damages for expenses incurred related to medical and/or emergency services related to this incident.

41. As a direct result and proximate cause of the violations of the standards of care by the Defendant/Health Care Provider, United States of America, through its duly authorized agents at Walter Reed National Military Medical Center, Ms. Arie died prematurely.

42. Prior to Ms. Arie's death, Defendant acted negligently, carelessly, recklessly, and/or unlawfully acted and/or failed to act, including but not limited to failing to perform mandatory duties so as to cause the death of Ms. Arie.



43. As a consequence of Decedent's death, the Plaintiff and her other children suffered pain, grief, sorrow, anguish, stress, shock, and mental suffering already experienced and reasonably probable to be experienced for the rest of their lives.

44. As a further consequence of Decedent's death caused by Defendant, Plaintiff incurred expenses for funeral and burial, medical care and services for the injury that resulted in death.

45. As a further consequence of Decedent's death caused by Defendant, Plaintiff has incurred the loss of love, affection, companionship, care, protection, and guidance since the death and in the future.


PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray judgment against Defendants as hereinafter set forth:

For compensatory and general damages in an amount according to proof;

- i. For past medical, incidental, and service expenses at a million dollars, \$1,000,000.00;
- ii. For pre- and post-judgment interest on all damages as allowed by the law;
- iii. For costs of suit incurred herein;
- iv. For attorney fees under existing law; and
- v. For such other and further relief as the Court may deem just and proper.

Dated: October 19, 2022

  
/s/ Beverly Armstrong  
Beverly Armstrong  
Pro Se Litigant  
202 Miller Avenue  
Leesville, LA 71446