

FILED

13 APR -1 AM 9: 03

CIRCUIT COURT
FOR MULTNOMAH COUNTY

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

04664

VICKI LOPEZ-LUNN,

Plaintiff,

v.

KAISER FOUNDATION HEALTH PLAN
OF THE NORTHWEST, an Oregon
Corporation, dba KAISER PERMANENTE,
KAISER FOUNDATION HOSPITALS,
NORTHWEST PERMANENTE, P.C.,
KAISER FOUNDATION HEALTH PLAN,
INC., JAMES W. DENNIS, M.D. and
EMILY BUBBERS, M.D.,

Defendants.

Case No. **1304-04664**

**COMPLAINT FOR
PERSONAL INJURY
(Medical Malpractice)**

- Jury Trial Requested

- Not Subject to Mandatory Arbitration

- ORS 21.160(1)(d)

-Amount Claimed \$1,700,000.00

ENTERED

APR - 1 2013

IN REGISTER BY RRM

1.

Kaiser Foundation Health Plan of the Northwest is an Oregon corporation that provides the services of a Health Maintenance Organization to Oregon residents, including plaintiff, within Multnomah County.

2.

In addition to or in the alternative to paragraph number 1 above, Kaiser Foundation Health Plan, Inc., is a foreign corporation that provides the services of a Health Maintenance Organization to Oregon residents, including plaintiff, within Multnomah County.

3.

Northwest Permanente, P.C. is an Oregon corporation with its principal place of business in Multnomah County.

1 4.

2 Kaiser Foundation Hospitals is a foreign corporation, authorized to conduct business in
3 the state of Oregon, operating medical facilities for defendants Kaiser Foundation Health Plan of
4 the Northwest, Northwest Permanente, P.C. and Kaiser Foundation Health Plan, Inc.

5 5.

6 At all times material herein, defendant James W. Dennis, M.D. was an employee of
7 defendant Northwest Permanente, P.C. and was acting in the course and scope of his
8 employment.

9 6.

10 At all times material herein, defendant Emily Bubbers, M.D. was a resident physician
11 authorized by defendants, Kaiser Foundation Health Plan of the Northwest and/or Kaiser
12 Foundation Hospitals and/or Northwest Permanente, P.C. and/or Kaiser Foundation Health Plan,
13 Inc., to perform medical procedures on patients, including plaintiff.

14 7.

15 At all times material herein, defendant Emily Bubbers, M.D., was acting under the
16 supervision of James Dennis, M.D.

17 8.

18 At all times material herein, Vicki Lopez-Lunn was a member of defendant Kaiser
19 Foundation Health Plan of the Northwest Health Maintenance Organization and/or Kaiser
20 Foundation Health Plan, Inc.'s Health Maintenance Organization. Kaiser Foundation Health
21 Plan of the Northwest and Kaiser Foundation Health Plan, Inc., hereinafter will be collectively
22 referred to as "defendant Kaiser."

23 9.

24 Defendant Kaiser promised its members, including Vicki Lopez-Lunn, healthcare from a
25 network of facilities either owned or designated by defendant Kaiser or by defendant Kaiser
26 Foundation Hospitals. Defendant Kaiser further promised that physician services provided to its

1 members, including Vicki Lopez-Lunn, would be provided by physicians either employed or
2 authorized by defendant Northwest Permanente, P.C., (hereinafter referred to as "defendant
3 Permanente").

4 10.

5 Vicki Lopez-Lunn was never informed of the increased risks associated with having a
6 resident surgeon, like Emily Bubbers, M.D. perform surgical procedures like the one performed
7 on plaintiff.

8 11.

9 On or about April 28, 2011, Dr. James Dennis, assisted by Dr. Emily Bubbers, performed
10 a colostomy closure along with intra-abdominal lyses of adhesions. During this procedure, either
11 Dr. Dennis or Dr. Bubbers under the supervision of Dr. Dennis, punctured Ms. Lopez-Lunn's
12 vaginal cuff with surgical staples causing her to develop a colovaginal fistula. As a result,
13 Ms. Lopez-Lunn began passing stool through her vagina.

14 12.

15 Defendant Dennis and/or defendant Bubbers knew or in the exercise of reasonable care
16 should have known that puncturing Ms. Lopez-Lunn's vaginal cuff with surgical staples would
17 cause injury to Ms. Lopez-Lunn.

18 13.

19 Puncturing a vaginal cuff with surgical staples, in the normal course of events, would not
20 have occurred unless defendant Dennis and/or defendant Bubbers were negligent in the
21 placement of the staples.

22 14.

23 Ms. Lopez-Lunn's injuries and damages described more fully herein are the foreseeable
24 result of defendant Dennis' negligent treatment of Ms. Lopez-Lunn in one or more of the
25 following particulars:

26 A. In stapling Ms. Lopez-Lunn's vaginal cuff;

- 1 B. In failing to check Ms Lopez-Lunn's vaginal cuff prior to completing surgery;
2 C. In failing to discover that Ms. Lopez-Lunn's vaginal cuff had been punctured by the
3 staple;
4 D. In failing to teach Dr. Bubbers how to use the stapler without puncturing Ms. Lopez-
5 Lunn's vaginal cuff;
6 E. In failing to teach Dr. Bubbers how to check Ms. Lopez-Lunn's vaginal cuff in order
7 to ensure that it had not been punctured during the surgery; and
8 F. In failing to adequately inform plaintiff of the risks and consequences of the above
9 surgery, including the increased risk associated with having a resident surgeon
10 perform part of the surgical procedure described herein.

11
12 15.

13 Ms. Lopez-Lunn's injuries and damages described more fully below were the foreseeable
14 result of Dr. Emily Bubber's negligent treatment of Ms. Lopez-Lunn in one or more of the
15 following particulars:

- 16 A. In initially stapling Ms. Lopez-Lunn's vaginal cuff;
17 B. In failing to check Ms Lopez-Lunn's vaginal cuff prior to completing surgery; and
18 C. In failing to discover that Ms. Lopez-Lunn's vaginal cuff had been punctured by the
19 staple.

20 16.

21 Had Dr. Dennis and/or Dr. Bubbers informed Ms. Lopez-Lunn of the risks associated
22 with this surgery, Ms. Lopez-Lunn would have elected not to proceed with the surgery.

23 17.

24 As a further foreseeable result of the acts and omissions (negligence/violation of standard
25 of care) as alleged herein, Ms. Lopez-Lunn was rendered disabled, impaired and incapacitated
26 and has suffered and will continue to suffer impairment, discomfort, disability, inconvenience

1 and interference with her normal and usual activities in a reasonable amount to be decided by the
2 jury and not to exceed \$1,000,000.00. This figure may be amended prior to trial.

3 18.

4 As further reasonably foreseeable result of the acts and omissions (negligence/violation
5 of the standard of care) as alleged herein, Ms. Lopez-Lunn has incurred and will incur in the
6 future, necessary hospital, doctor and medical expenses in a reasonable amount to be decided by
7 the jury and not to exceed \$300,000.00. This figure may be amended prior to trial.

8 19.

9 As a further reasonably foreseeable result of the acts and omissions (negligence/violation
10 of the standard of care) as alleged herein, Ms. Lopez-Lunn suffered wage loss and a loss of
11 future earning capacity in a reasonable amount to be determined by the jury and not to exceed
12 \$400,000.00. This figure may be amended prior to trial.

13 WHEREFORE, plaintiffs pray for judgment against the defendants as follows:

- 14 A. Non-economic damages in a reasonable amount to be decided by the jury and not
15 to exceed 1 million dollars;
16 B. Economic damages for medical expenses in a reasonable amount to be decided by
17 the jury and not to exceed \$300,000.00;
18 C. Economic damages for wage loss and a loss of future earning capacity in a
19 reasonable amount to be decided by the jury and not to exceed \$400,000.00.
20 D. Costs and disbursements incurred herein.

21
22 LAW OFFICES OF CLAYTON H. MORRISON, LLC.

23
24 CLAYTON H. MORRISON, OSB No. 74225
25 CLAYTON HUNTLEY MORRISON, OSB No. 98391
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