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APR 18 '13 PM 4:14

F I L E D
Clerk of the Superior Court

APR 18 2013

5 Attorneys for Plaintiff VALERIE STEELE,
6 individually, and as Successor in Interest to the
ESTATE OF CRAIG BRITTINGHAM

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO

10
11 Valerie Steele, individually, and as
12 Successor in Interest to the Estate of
Craig Brittingham,

13 Plaintiff,

14 v.

15
16 Kaiser Foundation Health Plan, Inc.;
17 Kaiser Foundation Hospitals; Southern
18 California Permanente Medical Group;
and Does 1 through 50, Inclusive,

19 Defendants.

Case No.: 37-2013-00045003-CU-PO-CTL

Complaint for:

- (1) Wrongful Death – Medical Negligence
(2) Survival Action – Medical Negligence

Jury Trial Demanded

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22 Comes now Plaintiff VALERIE STEELE, individually and as Successor in Interest to
23 the ESTATE OF CRAIG BRITTINGHAM for causes of action against Defendants KAISER
24 FOUNDATION HEALTH PLAN, INC.; KAISER FOUNDATION HOSPITALS; SOUTHERN
25 CALIFORNIA PERMANENTE MEDICAL GROUP; and DOES 1 through 50, Inclusive,
26 (collectively, "Defendants"). Plaintiff is informed, believes, and based thereon alleges as
27 follows:
28

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JURISDICTION & PARTIES

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2 1. At all times relevant to this action, Valerie Steele and Craig Brittingham were
3 natural persons and residents of San Diego County, State of California. At all times
4 relevant to this action, Steele and Brittingham were husband and wife. Valerie Steele is the
5 executor of the estate of Craig Brittingham.

6 2. Defendant Kaiser Foundation Hospitals is, and at all times herein mentioned
7 was, a healthcare corporation incorporated in the State of California. Defendant Kaiser
8 Foundation Hospitals duly organized and existing under the laws of California, and
9 authorized to provide 24-hour healthcare under the laws of the State of California and the
10 United States of America. Defendant Kaiser Foundation Hospitals is, and at all times
11 herein mentioned was, conducting business in San Diego County in the State of California

12 3. Defendant Southern California Permanente Medical Group is, and at all times
13 herein mentioned was, the owner, operator, parent corporation, agent, principle, and/or
14 management corporation of Defendant Kaiser Foundation Hospitals. Defendant Southern
15 California Permanente Medical Group is incorporated in the State of California, and is
16 duly organized and existing under the laws of the State of California. Defendant Southern
17 California Permanente Medical Group is, and at all times herein mentioned was,
18 conducting business in San Diego County in the State of California.

19 4. Defendant Kaiser Foundation Health Plan, Inc. is, and at all times herein
20 mentioned was, the owner, operator, parent corporation, agent, principle, and/or
21 management corporation of Defendant Kaiser Foundation Hospitals. Defendant Kaiser
22 Foundation Health Plan, Inc. is incorporated in the State of California, and is duly
23 organized and existing under the laws of the State of California. Defendant Kaiser
24 Foundation Health Plan, Inc., is, and at all times herein mentioned was, conducting
25 business in San Diego County in the State of California.

26 5. Plaintiffs do not know the true names and capacities of Defendants sued
27 herein as "Does 1 through 50, Inclusive," and, in accordance with Code of Civil Procedure
28 section 474, therefore sue these unidentified Defendants by the fictitious names of "Does 1

1 through 50, Inclusive.” Wherever in this Complaint it refers to “Defendants,” such
2 reference shall mean and include each expressly named defendant and all Doe defendants.
3 Plaintiffs will seek leave of this Court to amend this Complaint to set forth the true names
4 and capacities of the fictitiously named Defendants when their true identities and capacities
5 become known to Plaintiffs.

6 6. At all relevant times each Defendant – including DOES 1 through 50,
7 Inclusive – was the agent, servant, representative, partner or employee of each of the co-
8 Defendants, and in doing the things alleged in this Complaint, was acting within the course
9 and scope of his or her authority as such agent, servant, representative, partner or employee
10 of each co-Defendant.

11 7. The acts and omissions of Defendants, and each of them, were the legal cause
12 of injury and damage to Plaintiffs in an amount in excess of the jurisdictional threshold of
13 this Court.

14 **FACTUAL ALLEGATIONS**

15 1. In approximately 2003, Defendant diagnosed Brittingham with Hepatitis C
16 and moderately advanced cirrhosis.

17 2. After a year of diligent treatment in Defendants’ gastrointestinal department,
18 Defendants concluded Brittingham’s Hepatitis treatment and referred him back to his
19 primary-care doctor for regular checkups.

20 3. In approximately June 2011, Defendants saw Brittingham for complaints of
21 upper epigastric pain. A physician ordered x-rays of Brittingham’s liver which were
22 inconclusive. Diagnostic imaging revealed terminal liver cancer.

23 4. Brittingham died on January 28, 2012.

24 5. Notice-of-intent letters pursuant to Code of Civil Procedure section 364 were
25 mailed to Defendants between January 15 and January 18, 2013.

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FIRST CAUSE OF ACTION
*(Medical Negligence – Alleged by Plaintiff Valerie Steele,
individually, Against All Defendants)*

6. Plaintiff incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

7. Defendants had a duty to properly examine, diagnose, treat, monitor, and care for Brittingham consistent with the applicable standard of care.

8. Defendants failed to use the level of skill, knowledge, and care in diagnosis and treatment of Brittingham that other reasonably careful healthcare providers would have used in the same or similar circumstances by, among other things, failing to regularly monitor his liver in order to anticipate and timely respond to early signs of liver cancer.

9. Defendants' failure to diagnose and treat Brittingham according to the applicable standard of care was a substantial factor in, and thus a direct and proximate cause of, Brittingham's development of terminal liver cancer and his resulting death.

10. Brittingham's death would most likely not have occurred in the absence of negligence by his treating physicians. Moreover, the series of events that resulted in Mr. Brittingham's death occurred while Brittingham was under Defendants' exclusive care and control. Finally, Brittingham's voluntary actions did not cause or contribute to the series of events that ultimately resulted in his death.

11. As a direct and proximate cause of Brittingham's death, Steele has suffered damages, including loss of support, services, love, companionship, comfort, care, assistance, protection, affection, society, and moral support in an amount to be proven at trial.

SECOND CAUSE OF ACTION
*(Survival Action – Alleged by Valerie Steele as Successor in Interest
to the Estate of Craig Brittingham Against All Defendants)*

12. Plaintiff incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

13. Defendants had a duty to properly examine, diagnose, treat, monitor, and care for Brittingham consistent with the applicable standard of care.

1 14. Defendants failed to use the level of skill, knowledge, and care in diagnosis
2 and treatment of Brittingham that other reasonably careful healthcare providers would have
3 used in the same or similar circumstances by, among other things, failing to regularly
4 monitor his liver in order to anticipate and timely respond to early signs of liver cancer.

5 15. Defendants' failure to diagnose and treat Brittingham according to the
6 applicable standard of care was a substantial factor in, and thus a direct and proximate
7 cause of, Brittingham's development of terminal liver cancer.

8 16. Brittingham continued to live for months after Defendants' negligent acts or
9 omissions manifested into terminal cancer, a significant portion of which consisted of
10 intensive medical treatment. Brittingham incurred significant medical expenses as a result.
11 His cancer and/or the resulting treatment for the cancer rendered Brittingham unable to
12 work, resulting in past lost wages.

13 **PRAYER FOR RELIEF**

14 Wherefore, Plaintiff prays for judgment against each Defendant, as follows:

- 15 1. For special damages, including but not limited to, past medical expenses, past
16 lost wages, loss of future support and services, all in an amount to be proven at trial;
- 17 2. For general damages, including but not limited to, loss of love,
18 companionship, comfort, care, assistance, protection, affection, society, and moral support
19 in an amount to be proven at trial;
- 20 3. For pre-judgment interest according to proof;
- 21 4. For cost of suit herein incurred; and
- 22 5. For such other relief as this Court may deem just and proper.

23 Dated: April 12, 2013

THORSNES BARTOLOTTA MCGUIRE LLP

24
25 By: 

Kevin F. Quinn
Neal A. Markowitz

26
27 Attorneys for Plaintiff VALERIE STEELE,
28 individually, and as Successor in Interest to the
ESTATE OF CRAIG BRITTINGHAM