

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, number, and address):

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FOR COURT USE ONLY

FILED

DEC 06 2013

Clerk of the Superior Court of California
County of Sonoma
By: Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma

STREET ADDRESS: 600 Administration Drive

MAILING ADDRESS: Same as above

CITY AND ZIP CODE: Santa Rosa, CA 95403

BRANCH NAME: Civil

PLAINTIFF: JAMES GERRANS by and through LYNDIA TAWNEY as the
personal representative of the estate of JAMES GERRANS

DEFENDANT: KAISER FOUNDATION HEALTH PLAN, INC.; KAISER FOUNDATION
HOSPITALS, THE PERMANENTE MEDICAL GROUP, INC. KAISER PERMANENTE
MEDICAL CARE PROGRAM and DOES 1-100

☒ DOES 1 TO 100**COMPLAINT-Personal Injury, Property Damage, Wrongful Death**☐ AMENDED (Number):

Type (check all that apply):

- ☐ MOTOR VEHICLE ☒ OTHER (specify):
☐ Property Damage ☐ Wrongful Death
☐ Personal Injury ☒ Other Damages (specify):

W&I \$15600 et seq. & 15657

Jurisdiction (check all that apply):

- ☐ ACTION IS A LIMITED CIVIL CASE
Amount demanded ☐ does not exceed \$10,000
☐ exceeds \$10,000, but does not exceed \$25,000
☒ ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)
☐ ACTION IS RECLASSIFIED by this amended complaint
☐ from limited to unlimited
☐ from unlimited to limited

CASE NUMBER:

SCV 254726

1. **Plaintiff (name or names):** JAMES GERRANS by and through LYNDIA TAWNEY as the personal representative of the estate of JAMES GERRANS
alleges causes of action against defendant (name or names): KAISER FOUNDATION HEALTH PLAN, INC.; KAISER FOUNDATION HOSPITALS, THE PERMANENTE MEDICAL GROUP, KAISER PERMANENTE MEDICAL CARE PROGRAM and
2. This pleading, including attachments and exhibits, consists of the following number of pages: DOES 1-100
3. Each plaintiff named above is a competent adult
 - a. ☐ except plaintiff (name):
 - (1) ☐ a corporation qualified to do business in California
 - (2) ☐ an unincorporated entity (describe):
 - (3) ☐ a public entity (describe):
 - (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
 - (5) ☐ other (specify):
 - b. ☐ except plaintiff (name):
 - (1) ☐ a corporation qualified to do business in California
 - (2) ☐ an unincorporated entity (describe):
 - (3) ☐ a public entity (describe):
 - (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
 - (5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

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GERRANS v. KAISER, et al.

CASE NUMBER:

4. ☐ Plaintiff (name):
is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.
5. Each defendant named above is a natural person
- a. ☒ except defendant (name):
KAISER FOUNDATION HEALTH PLAN, INC
(1) ☒ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity (describe):

(4) ☐ a public entity (describe):

(5) ☐ other (specify):
- b. ☒ except defendant (name):
KAISER FOUNDATION HOSPITALS
(1) ☒ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity (describe):

(4) ☐ a public entity (describe):

(5) ☐ other (specify):
- c. ☒ except defendant (name):
THE PERMANENTE MEDICAL GROUP, INC.
(1) ☒ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity (describe):

(4) ☐ a public entity (describe):

(5) ☐ other (specify):
- d. ☒ except defendant (name):
KAISER PERMANENTE MEDICAL CARE PROGRAM
(1) ☒ a business organization, form unknown
(2) ☐ a corporation
(3) ☐ an unincorporated entity (describe):

(4) ☐ a public entity (describe):

(5) ☐ other (specify):
- ☐ Information about additional defendants who are not natural persons is contained in Attachment 5.
6. The true names of defendants sued as Does are unknown to plaintiff.
- a. ☒ Doe defendants (specify Doe numbers): 1-50 were the agents or employees of other named defendants and acted within the scope of that agency or employment.
- b. ☒ Doe defendants (specify Doe numbers): 51-100 are persons whose capacities are unknown to plaintiff.
7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):
8. This court is the proper court because
- a. ☐ at least one defendant now resides in its jurisdictional area.
- b. ☒ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
- c. ☐ injury to person or damage to personal property occurred in its jurisdictional area.
- d. ☐ other (specify):
9. ☐ Plaintiff is required to comply with a claims statute, and
- a. ☐ has complied with applicable claims statutes, or
- b. ☐ is excused from complying because (specify):

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10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- a. ☐ Motor Vehicle
- b. ☐ General Negligence
- c. ☐ Intentional Tort
- d. ☐ Products Liability
- e. ☐ Premises Liability
- f. ☒ Other (specify):

Elder abuse reckless neglect per Welfare and Institutions Code Section 15600, et seq. including but not limited to Section 15657.

11. Plaintiff has suffered

- a. ☐ wage loss
- b. ☐ loss of use of property
- c. ☒ hospital and medical expenses
- d. ☒ general damage
- e. ☐ property damage
- f. ☐ loss of earning capacity
- g. ☒ other damage (specify):

Decedent JAMES GERRANS' pain and suffering per Welfare and Institutions Code Section 15657(b), attorney fees per Section 15657(a) and other enhanced remedies.

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.
- b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
 - (2) ☒ punitive damages
- The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):
- (1) ☒ according to proof and prejudgment interest and attorney fees as per above.
- (2) ☐ in the amount of: \$
- elder & dependent adult abuse of W&I Code 15600, et seq. including but not
not limited to 15657 and incl. Civil Code §3294.

15. ☐ The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):

Date: December 6, 2013

DOUGLAS C. FLADSETH

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

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GERRANS v. KAISER, et al.

PLD-PI-001(2)

FILE NUMBER:

FIRST

CAUSE OF ACTION- General Negligence

Page _____

(number)

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): JAMES GERRANS by and through LYNDIA TAWNEY as the personal representative of the estate of JAMES GERRANS

alleges that defendant (name): KAISER FOUNDATION HEALTH PLAN, INC., KAISER FOUNDATION HOSPITALS, THE PERMANENTE MEDICAL GROUP, INC., KAISER PERMANENTE MEDICAL CARE PROGRAM and

☒ Does 1 to 100

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): On or about December 6-10, 2011 and including through the time of MR. GERRANS death.

at (place): Santa Rosa, Sonoma County, California

(description of reasons for liability) :

Defendants and each of them are the actual and ostensible agents of each of them.

Defendants and each of them failed to obtain Plaintiff's fully informed consent.

Defendants and each of them were aware of and approved and ratified all the repeated violations and pattern of neglect and misconduct of Defendants, and each of them, and which acts were also intentionally the direct misconduct of Defendants, and each of them, and their managers, agents and officers and directors, all done for the purpose of cutting costs, despite record profits and all in conscious and reckless disregard for the health, welfare and safety of their patients, including JAMES GERRANS.

Defendants and each of them consciously and recklessly failed to reasonably and timely and properly diagnose and treat and refer for diagnosis and treatment JAMES GERRANS, all leading to significant harms and losses, causing extreme suffering due to untreated suffocation and abandonment by KAISER doctors and management and leading ultimately to his death on or about 12/10/11.

Decedent JAMES GERRANS was an elderly and dependent adult and within the care, custody and control of Defendants and each of them.

Defendants and each of their managing agents and employees intentionally and recklessly neglected MR. GERRANS by failing to properly monitor and care for him. Defendants and each of them failed to hire, retain and instruct staffing sufficiently and adequately to care for MR. GERRANS knowing this placed him at great risk of harm such as occurred and resulting in his ultimate death on or about 12/10/11.

SEE ATTACHMENT TO FIRST CAUSE OF ACTION

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SHORT TITLE:

- GERRANS v. KAISER, et al.

CASE NUMBER:

ATTACHMENT (Number) : FIRST CAUSE OF ACTION*(This Attachment may be used with any Judicial Council form.)*

Defendants and each of them knew that JAMES GERRANS was elderly, age 74, and doing poorly after knee surgery at their facility. Defendants, their doctors, and each of them, as part of Defendants' ongoing cost cutting, profits before patient's philosophy, refused to attend to MR. GERRANS as part of their usual and common practice to ignore and abandon care for their elderly and infirm patients and Kaiser abandoned MR. GERRANS without necessary care despite knowing that MR. GERRANS couldn't breathe and was suffocating. Defendants were aware MR. GERRANS' oxygen level was repeatedly dropping below life sustaining levels and that MR. GERRANS was gasping for air and anxious and frightened. Defendants knew that their own treating nurses were desperately trying to get one, any, Defendant doctors to come in to treat MR. GERRANS and to order his transfer to the ICU and to place MR. GERRANS on a ventilator and to provide him with pain medicine to ease his suffering.

MR. GERRANS was suffering not only physically due to his own suffocation but also emotionally and mentally because his daughter, LYNDA TAWNEY, a VA nurse, was present as was his other daughter, Renee Gerrans, and his wife, Della Gerrans. He saw and felt their fear and their desperate and futile attempts to get him help. He saw and felt his treating KAISER nurses failed and futile attempts to get that same help. He turned blue. He lost consciousness. He endured great pain and suffering due to his undiagnosed and untreated medical condition and suffocation and lack of pain medication.

As the CDPH State investigation validates, Defendants abandoned MR. GERRANS without cause. MR. GERRANS was a candidate for the ICU and the ICU was available.

Defendant nurses finally had to call for a "Rapid Response Team" as the only way to get the necessary attention and transfer and treatment.

MR. GERRANS arrived in the ICU in dire straights and despite full and desperate means by the ICU doctor, it was too late to prevent his prolonged suffering and suffocation. MR. GERRANS suffered a slowly, painful and agonizing death by suffocation.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

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(Add pages as required)