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FILED Santa Clara Co
02/27/14 1:51pm
David H. Yamasaki
Chief Executive Officer
By: aramirez DTSCIV01
R#201400018528
CK \$435.00
TH \$435.00
Case: 1-14-CV-261411

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF SANTA CLARA

10 UNLIMITED JURISDICTION

11 BINDESRI PRASAD

12 Plaintiff,

13 vs.

14 KAISER FOUNDATION HEALTH
15 PLAN, INC., KAISER FOUNDATION
16 HOSPITALS, THE PERMANENTE
17 MEDICAL GROUP, INC., THE
18 PERMANENTE MEDICAL GROUP
KAISER FOUNDATION HOSPITALS,
KAISER PERMANENTE SAN JOSE
MEDICAL CENTER, SUSAN KUTNER,
M.D., SARALA RAJA, M.D., JULIE
HAGGERTY, P.T., and DOES 1-70

19 Defendants.

CASE NO. **114 CV 261411**

COMPLAINT FOR DAMAGES

Causes of Action:

1. Negligence
2. Medical Malpractice

21 Plaintiff BINDESRI PRASAD alleges as follows:

22 GENERAL ALLEGATIONS

23 1. At all relevant times alleged herein, Plaintiff was a Canadian citizen visiting family
24 members who reside in Santa Clara County, California.

25 2. Defendants KAISER FOUNDATION HEALTH PLAN, INC., KAISER
26 FOUNDATION HOSPITALS, THE PERMANENTE MEDICAL GROUP, THE
27 PERMANENTE MEDICAL GROUP KAISER FOUNDATION HOSPITALS, KAISER
28 PERMANENTE SAN JOSE MEDICAL CENTER, and DOES 1-10 ("KAISER") are now,

1 and at all times mentioned in this Complaint, were business of unknown form organized and
2 existing under the laws of the State of California, situated in Santa Clara County, California
3 and/or entities in Santa Clara County located at 250 Hospital Parkway, San Jose, California
4 95119-1103, that provided medical care and treatment to Plaintiff at issue in this Complaint.

5 3. Defendants SUSAN KUTNER, M.D., SARALA RAJA, M.D., and DOES 11-40 are
6 medical doctors licensed in the State of California and provided medical care and treatment to
7 Plaintiff.

8 4. Defendants JULIE HAGGARTY, P.T. and DOES 41-70 are now, and at all times
9 mentioned in this Complaint, employees of KAISER, acting in the course and scope of their
10 employment, and responsible for providing medical care and treatment to Plaintiff.

11 5. The true names of defendants sued as DOES are unknown to Plaintiff, who therefore
12 sues them by such fictitious names. Each of the defendants, including DOES 1-70, were the
13 agents, employees, supervisors, employers and joint venturers of the other defendants, and
14 were acting in the course and scope of such relationship at the time of the acts and omissions
15 herein alleged.

16 6. This court is the proper court because at least one defendant now resides in its
17 jurisdictional area, because injury to persons occurred in its jurisdictional area, and
18 compensation sought for Plaintiff's injuries is within the jurisdiction of this court. The amount
19 in controversy exceeds \$25,000.

20 7. On or around June 15, 2013, Plaintiff BINDESRI PRASAD, was admitted to KAISER
21 to receive treatment and surgery for a hernia. Defendants KAISER, SUSAN KUTNER, M.D.,
22 SARALA RAJA, M.D., JULIE HAGGERTY, P.T., and DOES 1-70, and each of them,
23 provided medical care and treatment to Plaintiff at that time and all other times relevant to this
24 complaint. Following Plaintiff's June 16, 2013 surgery for his hernia, Plaintiff was at-risk for
25 falling and such risk was known by all Defendants. The Defendants knowing of the Plaintiff's
26 condition, failed to use reasonable care, in part, by letting Plaintiff ambulate without
27 appropriate supervision or assistance and while using a rolling bedside table for support. On
28 or around June 21, 2013, while under the care of Defendants, Plaintiff was ambulating

1 unsupervised, lost his balance when the bedside table rolled away from him, and Plaintiff fell
2 to the floor, injuring and damaging himself.

3 8. Defendants and each of them did negligently and carelessly diagnose, test, treat, advise,
4 administer to, and care for Plaintiff so as to cause him to suffer severe personal injuries,
5 including, but not limited to an internal brain bleed, causing permanent brain damage.

6 9. In addition, Defendants negligently and carelessly hired, promoted, trained, instructed,
7 failed to train and failed to instruct the KAISER staff, including, but not limited to, the
8 physicians named as defendants, and others, which was a substantial contributing factor in
9 causing Plaintiff's injuries, damages and permanent disability.

10 10. As a further and legal result of the negligence and carelessness of the defendants, and
11 each of them, Plaintiff suffered economic damage, including, but not limited to, past and
12 future medical expenses, hospital, rehabilitation and therapy expenses, convalescent, increased
13 cost of travel health insurance, attendant and skilled nursing services.

14 **FIRST CAUSE OF ACTION**

15 **(NEGLIGENCE)**

16 11. Plaintiff incorporates by reference each and every preceding allegation as though fully
17 set forth herein.

18 12. At all times mentioned herein, the Defendants failed to use reasonable care with respect
19 to Plaintiff.

20 13. Due to these unreasonable acts and omissions, Plaintiff was injured and damaged as
21 described herein.

22 **SECOND CAUSE OF ACTION**

23 **(MEDICAL MALPRACTICE)**

24 14. Plaintiff incorporates by reference each and every preceding allegation as though fully
25 set forth herein.

26 15. At all times mentioned herein, the Defendants' acts and omissions with respect to the
27 medical care and treatment of Plaintiff was unreasonable and below the applicable standard of
28 care.

1 16. Due to these acts and omissions, Plaintiff was injured and damaged as described
2 herein.

3 WEREFOR, Plaintiff prays for judgment against Defendant as follows:

- 4 1. For non-economic damages according to proof;
5 2. For economic damages according to proof;
6 3. For attorneys' fees;
7 4. For costs of suit; and
8 5. For such other and further relief as the Court may deem just and proper.
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10 Dated: February 27, 2014

MINAMI TAMAKI LLP

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12 By: 

Seth I. Rosenberg, Esq.

Attorney for Plaintiff, Bindsri Prasad
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