

Superior Court of California

County of Orange



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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

BJAUN JOHNSON, an individual,

Plaintiff,

v.

CASE NO. 30-2014-00751900-CU-MM-CJC
Judge Gregory H. Lewis
COMPLAINT FOR WRONGFUL DEATH
(Medical Malpractice)

KAISER FOUNDATION HEALTH PLAN,
INC., an entity; KAISER FOUNDATION
HOSPITALS, an entity; SOUTHERN
CALIFORNIA PERMANENTE MEDICAL
GROUP, an entity; THEODORE THEIN
NGUYEN M.D., an individual; DOAN-
TRANG THI TRAN M.D., an individual;
HECTOR ARROYO M.D., an individual;
JAMES H. TRUONG M.D.; an individual;
MICHAEL HUA-JIE LI M.D., an individual;
HENRY HONCHUN FANG M.D., an
individual; WILLIAM WANG M.D., an
individual; SUNG HI PAK M.D., an
individual; and DOES 1 to 25, inclusive,

Defendants.

JURY TRIAL DEMANDED

Plaintiff BJAUN JOHNSON complains and alleges as follows:

THE PARTIES

Plaintiff

1. Pursuant to California Code of Civil Procedure section 377.60, Plaintiff BJAUN

1 JOHNSON ("Plaintiff"), as the son of the Decedent Tanya Thompson ("Ms. Thompson"), is
2 entitled to bring a claim for her wrongful death. At all relevant times described below, Plaintiff
3 was a resident of Orange County, State of California.

4 **Defendants**

5 2. Plaintiff is informed and believes, and thereon alleges, that Defendant
6 THEODORE THEIN NGUYEN M.D. ("NGUYEN") is, and at all times herein mentioned was,
7 a physician holding himself out to be a duly licensed to practice medicine and relative medical
8 services in the State of California, and is a practicing physician with his principal place of
9 business in Orange County, in the State of California. Furthermore, said Defendant was a
10 physician holding himself out to be duly licensed to practice medicine and relative medical
11 services in the State of California, and as possessing that degree of skill, ability, and expertise,
12 knowledge, qualifications, and learning of similar practitioners in said community, in that said
13 Defendant had a duty of care and attention toward Plaintiff's decedent.

14 3. Plaintiff is informed and believes, and thereon alleges, that Defendant DOAN-
15 TRANG THI TRAN M.D. ("TRAN") is, and at all times herein mentioned was, a physician,
16 holding himself out to be a duly licensed to practice medicine and relative medical services in
17 the State of California, and is a practicing physician with his principal place of business in
18 Orange County, in the State of California. Furthermore, said Defendant was a physician
19 holding himself out to be duly licensed to practice medicine and relative medical services in the
20 State of California, and as possessing that degree of skill, ability, and expertise, knowledge,
21 qualifications, and learning of similar practitioners in said community, in that said Defendant
22 had a duty of care and attention toward Plaintiff's decedent.

23 4. Plaintiff is informed and believes, and thereon alleges, that Defendant HECTOR
24 ARROYO M.D. ("ARROYO") is, and at all times herein mentioned was, a physician, holding
25 himself out to be a duly licensed to practice medicine and relative medical services in the State
26 of California, and is a practicing physician with his principal place of business in Orange
27 County, in the State of California. Furthermore, said Defendant was a physician holding
28 himself out to be duly licensed to practice medicine and relative medical services in the State of

1 California, and as possessing that degree of skill, ability, and expertise, knowledge,
2 qualifications, and learning of similar practitioners in said community, in that said Defendant
3 had a duty of care and attention toward Plaintiff's decedent.

4 5. Plaintiff is informed and believes, and thereon alleges, that Defendant JAMES H.
5 TRUONG M.D., ("TRUONG"), is, and at all times herein mentioned was, a physician, holding
6 himself out to be a duly licensed to practice medicine and relative medical services in the State
7 of California, and is a practicing physician with his principal place of business in Orange
8 County, in the State of California. Furthermore, said Defendant was a physician holding
9 himself out to be duly licensed to practice medicine and relative medical services in the State of
10 California, and as possessing that degree of skill, ability, and expertise, knowledge,
11 qualifications, and learning of similar practitioners in said community, in that said defendant
12 had a duty of care and attention toward Plaintiff's decedent.

13 6. Plaintiff is informed and believes, and thereon alleges, that Defendant
14 MICHAEL HUA-JIE LI M.D. ("HUA-JIE LI") is, and at all times herein mentioned was, a
15 physician, holding himself out to be a duly licensed to practice medicine and relative medical
16 services in the State of California, and is a practicing physician with his principal place of
17 business in Orange County, in the State of California. Furthermore, said Defendant was a
18 physician holding himself out to be duly licensed to practice medicine and relative medical
19 services in the State of California, and as possessing that degree of skill, ability, and expertise,
20 knowledge, qualifications, and learning of similar practitioners in said community, in that said
21 Defendant had a duty of care and attention toward Plaintiff's decedent.

22 7. Plaintiff is informed and believes, and thereon alleges, that Defendant HENRY
23 HONCHUN FANG M.D. ("FANG") is, and at all times herein mentioned was, a physician,
24 holding himself out to be a duly licensed to practice medicine and relative medical services in
25 the State of California, and is a practicing physician with his principal place of business in
26 Orange County, in the State of California. Furthermore, said Defendant was a physician
27 holding himself out to be duly licensed to practice medicine and relative medical services in the
28 State of California, and as possessing that degree of skill, ability, and expertise, knowledge,

1 qualifications, and learning of similar practitioners in said community, in that said Defendant
2 had a duty of care and attention toward Plaintiff's decedent.

3 8. Plaintiff is informed and believes, and thereon alleges, that Defendant
4 WILLIAM WANG M.D. ("WANG") is, and at all times herein mentioned was, a physician,
5 holding himself out to be a duly licensed to practice medicine and relative medical services in
6 the State of California, and is a practicing physician with his principal place of business in
7 Orange County, in the State of California. Furthermore, said Defendant was a physician
8 holding himself out to be duly licensed to practice medicine and relative medical services in the
9 State of California, and as possessing that degree of skill, ability, and expertise, knowledge,
10 qualifications, and learning of similar practitioners in said community, in that said Defendant
11 had a duty of care and attention toward Plaintiff's decedent.

12 9. Plaintiff is informed and believes, and thereon alleges, that Defendant SUNG HI
13 PAK M.D. ("PAK") is, and at all times herein mentioned was, a physician, holding himself out
14 to be a duly licensed to practice medicine and relative medical services in the State of
15 California, and is a practicing physician with his principal place of business in Orange County,
16 in the State of California. Furthermore, said Defendant was a physician holding himself out to
17 be duly licensed to practice medicine and relative medical services in the State of California,
18 and as possessing that degree of skill, ability, and expertise, knowledge, qualifications, and
19 learning of similar practitioners in said community, in that said Defendant had a duty of care
20 and attention toward Plaintiff's decedent.

21 10. Plaintiff is informed and believes, and thereon alleges, that Defendant KAISER
22 FOUNDATION HEALTH PLAN, INC. is, and at all times herein mentioned was, a California,
23 corporation incorporated in the State of California with an active corporate status and doing
24 business in the State of California, County of Orange.

25 11. Plaintiff is informed and believes, and thereon alleges, that Defendant KAISER
26 FOUNDATION HOSPITALS is, and at all times herein mentioned was, a California,
27 corporation incorporated in the State of California with an active corporate status and doing
28 business in the State of California, County of Orange.

1 Ms. Thompson to return for a follow visit in approximately two months.

2 18. On or about August 27, 2013, Ms. Thompson still in considerable pain presented
3 to Defendant TRAN who has a specialty in Gastroenterology. Defendant TRAN noted that
4 Ms. Thompson presented with recurrent abdominal pain, bloating/distension, nausea and
5 vomiting. He further noted that a previous CT scan for Ms. Thompson's abdomen had shown a
6 markedly distended small bowel loops suspicious for partial small bowel obstruction.
7 Defendant TRAN noted that Ms. Thompson "looks like she has partial obstructive symptoms
8 with dilated small intestine." Defendant recommended for Ms. Thompson to schedule a CT
9 scan enterography and scheduled her for a return visit on October 8, 2013.

10 19. On or about September 9, 2013, Ms. Thompson presented for a CT scan. On or
11 about September 25, 2013, the results of the CT scan were documented. The report of the scan
12 noted that the extent of the disease in her bowels appeared to have worsened since her last exam.
13 The report noted that Ms. Thompson had a marked narrowing to her distal ileum and that her
14 colon was decompressed.

15 20. On or about October 7, 2013, Ms. Thompson, presented to Defendant ARROYO
16 (Hepatobiliary Surgery) for treatment of the same symptoms. Ms. Thompson reported that she
17 was unable to function normally due to the degree of distention and problems related to it in her
18 bowels. She noted that while she usually was 107 pounds she had recently dropped to 95
19 pounds. Defendant ARROYO noted a diagnosis of Partial Small Bowel Obstruction. He then
20 instructed Ms. Thompson to return in three weeks because he would need some time to think
21 about how he could best help her.

22 21. On or about October 8, 2013, Ms. Thompson again presented to Defendant
23 TRAN. Defendant TRAN noted that Ms. Thompson still has chronic distension. He further
24 noted that she looked like she has partial obstructive symptoms with dilated small intestine on
25 exam and imaging. He further noted his suspicion that she had chronic radiation enteritis. He
26 additionally noted that Ms. Thompson should inform him about Defendant ARROYO's future
27 surgery plans, if any, to address her symptoms.

28 22. On or about October 20, 2013, Ms. Thompson presented to the emergency

1 department of the KAISER Defendants' facility in Anaheim. Ms. Thompson presented with
2 abdominal pain, leg numbness, and worsening abdominal distension. The Emergency
3 Department Physician's note at 9:55 a.m. recorded a suspected small bowel obstruction and
4 distended loops of bowel. General surgery was consulted and Ms. Thompson was prepped for
5 surgery. Examination prior to surgery revealed a perforated viscus on abdominal XR and
6 bandemia.

7 23. Thereafter, Ms. Thompson underwent surgery for a diagnostic laparoscopy,
8 possible laparoscopy, possible laparotomy, possible bowel resection, and possible ostomy. The
9 POST OPP diagnosis confirmed a perforated viscus. During the course of the surgery Ms.
10 Thompson died.

11 **FIRST CAUSE OF ACTION**

12 **Wrongful Death**

13 **(By Plaintiff Against all Defendants)**

14 24. Plaintiff re-alleges and incorporates herein by reference the aforementioned
15 paragraphs as though fully set forth in this Cause of Action.

16 **Duty**

17 25. Defendants were under a legal duty to have that degree of learning and skill
18 ordinarily possessed by reputable physicians, practicing in the same or a similar locality
19 and under similar circumstances.

20 26. Further, Defendants had the duty to use reasonable diligence and their best
21 judgment in the exercise of skill and the application of learning, in an effort to accomplish
22 the purpose for which they were employed.

23 27. Furthermore, Defendants had the duty to properly follow-up, communicate
24 about and monitor Ms. Thompson's care and condition at all times while she under the care
25 of Defendants.

26 28. Moreover, Defendants had the duty to possess and exercise the knowledge
27 and skill ordinarily possessed by reputable specialists in the same field.

28 29. KAISER Defendants undertook to provide medical, surgical and nursing

1 services to decedent Ms. Thompson by employing and having under their control the doctors,
2 nurses and other employees who provided services to decedent Ms. Thompson. As such,
3 KAISER Defendants were under a legal duty for the actions of these doctors, nurses and other
4 employees providing services.

5 30. Further, KAISER Defendants had a duty to use reasonable care in furnishing
6 a patient the care, attention, and protection reasonably required by the Patient's condition.

7 31. Further, KAISER Defendants had a duty to use reasonable care in furnishing
8 a patient the care, attention, and protection reasonably required by the Patient's condition.

9 32. Furthermore, KAISER Defendants had a duty to use the care, skill, and
10 diligence ordinarily used by hospitals or medical groups generally in the same or similar
11 locality and under similar circumstances, including proper communication about and
12 monitoring of a patient's condition, as well as ensuring a patient is treated in the proper
13 facility.

14 33. Moreover, KAISER Defendants had a duty to ensure that they did not hire or
15 retain any health care provider who was known to be incompetent, unable to practice within
16 the standard of care, or who made conscious decisions to unlawfully sacrifice the standard
17 of care.

18 **Breach of Duty**

19 34. Specifically, Defendants, and each of them, breached their duty of care in that
20 they failed to diagnose, treat, test, and properly monitor decedent Ms. Thompson, in light of the
21 numerous signs of a bowel obstruction and potentially perforated bowel. Additionally,
22 Defendants, and each of them, breached their duty to care to plaintiff by failing to properly
23 communicate as to Ms. Thompson's status and treatment.

24 35. Defendants further breached their duty of care to decedent by failing to treat and
25 diagnosis decedent's condition.

26 36. Furthermore, Defendants, and each them, breached their duty of care to decedent
27 by failing to ensure she was treated at the proper facility with the proper level of care.

28 37. Moreover, Defendants also breached their duty to decedent by failing to properly

1 follow-up and monitor decedent's condition, as well as, to properly communicate to others about
2 decedent's condition.

3 38. Additionally, KAISER Defendants, and each of them, breached their duty of care
4 to Plaintiff by wrongfully allowing their employees and agents to hold themselves out as health
5 care providers who practice within the standard of care.

6 **Causation**

7 39. As a direct and proximate result of the negligence of Defendants, and each of
8 them, decedent lost her life. This incident occurred because of Defendants' failures to properly
9 diagnose, treat, communicate about, and monitor decedent's medical condition. If Defendants
10 had properly diagnosed, treated, communicated about, and monitored decedent's medical
11 condition, then corrective action could have been undertaken to prevent Ms. Thompson's death.

12 **Damages**

13 40. As a proximate result of the Defendants' negligence, Plaintiff has suffered
14 funeral expenses, burial expenses, loss of future support, loss of care, comfort, and society, loss
15 of household services, loss of moral advice, affection, love, society, presence, companionship,
16 and protection.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff prays for judgment and relief as follows:

19 1. That Plaintiff recover from Defendants all economic damages, in an amount
20 determined according to proof at the time of trial;

21 2. That Plaintiff recover from Defendants all non-economic damages, in an amount
22 determined according to proof at the time of trial;

23 3. For costs of suit herein; and,

24 4. For such other and further relief as the Court may deem just and proper.

25 DATED: October 20, 2014

MARLIN & SALTZMAN, LLP

26 By: 

27 Marcus J. Bradley, Esq.

28 William A. Baird, Esq.

Attorneys for Plaintiff


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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all claims and causes of action existing in this lawsuit.

DATED: October 20, 2014

MARLIN & SALTZMAN, LLP

By: 

Marcus J. Bradley, Esq.
William A. Baird, Esq.
Attorneys for Plaintiff

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