

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

SCOTT NAGEL and HOLLY NAGEL,) Case No.:
husband and wife,)
Plaintiffs,) COMPLAINT FOR MEDICAL
vs.) NEGLIGENCE & LOSS OF
) CONSORTIUM
) (NOT SUBJECT TO MANDATORY
KAISER FOUNDATION HEALTH) ARBITRATION)
PLAN OF THE NORTHWEST, an)
Oregon corporation; and) JURY TRIAL DEMANDED
NORTHWEST PERMANENTE, P.C.,)
an Oregon corporation,) PRAYER: \$4,412,300
Ch. 48, Sec. 2; ORS 21.160(1)
Defendants

Plaintiffs demand a jury trial and allege:

FIRST CLAIM FOR RELIEF
(MEDICAL NEGLIGENCE)

1.

On February 15, 2013, Plaintiff Scott Nagel (hereinafter "Plaintiff Scott Nagel") sought the care and treatment of defendants.

2.

Kaiser Foundation Health Plan of the Northwest (hereinafter "defendant Kaiser") is a health plan providing medical services in the State of Oregon, and

1 Multnomah County. At all times material herein, defendant Kaiser was an
2 Oregon corporation in the for-profit business of providing hospital care and
3 services to patients in the Portland metropolitan area at hospital facilities
4 owned and operated by defendant, including Kaiser Hospital Sunnyside.
5 Defendant Kaiser held out as apparent agents physician surgeons who
6 operated on patients at defendant's hospital facilities.

7 3.

8 Northwest Permanente, P.C., is an organization of doctors providing
9 medical services in the State of Oregon. At all times material herein, defendant
10 Kaiser was an Oregon corporation in the for-profit business of providing
11 hospital care and services to patients in the Portland metropolitan area at
12 hospital facilities owned and operated by defendant, including Kaiser Hospital
13 Sunnyside. Defendant Kaiser held out as apparent agents physician surgeons
14 who operated on patients at defendant's hospital facilities.

15 4.

16 Plaintiff Scott Nagel was a patient of the above defendants at all times
17 mentioned herein.

18 5.

19 On or about February 15, 2013, at 5:30 p.m., plaintiff Holly Nagel,
20 telephoned the advice nurse at Kaiser Permanente Sunnyside Medical Center,
21 and informed them that her husband, plaintiff Scott Nagel, was complaining of
22 sudden, severe headache pain and excessive vomiting. Plaintiff Holly Nagel
23 further informed the advice nurse that plaintiff Scott Nagel had recently been

1 hospitalized for bacterial meningitis, and was diagnosed with deep vein
2 thrombosis and was placed on blood thinners.

3 6.

4 On February 15, 2013, at 6:49 p.m., plaintiff Scott Nagel presented to
5 Kaiser Permanente Sunnyside Medical Center on the advice of the telephone
6 triage RN, and was placed in the general waiting room. Between 6:49 p.m. and
7 11:00 p.m., no physician evaluated plaintiff Scott Nagel, despite abnormal
8 laboratory findings and abnormal vital signs. At approximately 11:00 p.m.,
9 plaintiff Scott Nagel fell unconscious and his heart rate rose to a dangerous
10 level. He was taken for a head CT scan and found to have been suffering from a
11 subdural hematoma.

12
13 Defendants by and through their employees, agents, and/or ostensible
14 agents, were negligent in one or more of the following ways:

- 15
16 1) In failing to regularly monitor Scott Nagel's use of anticoagulation
17 medication by failing to schedule Scott Nagel for INR check prior to
18 2/15/13.
- 19 2) In failing to timely document and inform Emergency Room
20 physicians that Scott Nagel had been taking anticoagulants prior
21 to his admission on 2/15/13;
- 22 3) In failing to promptly and timely notify the physicians of Scott
23 Nagel's abnormal lab tests on 2/15/13;

- 4) In failing to promptly and timely notify the physicians of Scott Nagel's and abnormal vital signs on 2/15/13;
- 5) In failing to immediately and timely order a head CT or other head radiology study on 2/15/13;
- 6) In failing to promptly and timely assess and document Scott Nagel's physical and neurological status after his arrival to the hospital on 2/15/13;
- 7) In failing to monitor and document Scott Nagel's physical and neurological status between the hours of 6:49 pm and 11:00 pm on 2/15/13;
- 8) In failing to promptly and timely report nursing observations and assessments to the Emergency Room physicians on 2/15/13; and
- 9) In failing to promptly and timely consult with appropriate specialists on 2/15/13.

8.

As a consequence of defendants' negligence, and each of them, Plaintiff Scott Nagel's subdural bleed was allowed to continue for more than four hours and progressed into a far more harmful and potentially deadly hemorrhagic stroke. He suffered the pain, paralysis and cognitive deficits as a result of the progression of the subdural bleed and is permanently disabled and will continue to require physical therapy, cognitive therapy and rehabilitation.

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1 9.

2 As a further consequence of defendants' negligence, and each of them,
3 Plaintiff Scott Nagel has incurred medical bills in the approximate amount of
4 \$168,300.

5 10.

6 Plaintiff Scott Nagel will need for future medical care and treatment,
7 rehabilitation and habilitation all to his economic damage in the amount of
8 \$250,000. This number may change, depending on whether plaintiff's condition
9 improves, persists, or worsens

10 11.

11 As a further consequence of Defendants' negligence, and each of them,
12 Plaintiff Scott Nagel has suffered past economic loss and will suffer a future
13 loss of earning capacity and loss of earnings in the amount of \$662,300.

14 12.

15 As a further consequence of defendant's negligence, and each of them,
16 Plaintiff Scott Nagel will experience and has experienced loss of enjoyment of
17 life, physical and mental pain and suffering, and permanent injuries all to his
18 noneconomic damages in the amount of \$3,000,000. This number may change,
19 depending on whether plaintiff's condition improves, persists, or worsens.

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1 **SECOND CLAIM FOR RELIEF**

2 (Loss of Consortium)

3 13.

4 Plaintiff Holly Nagel is the wife of Plaintiff Scott Nagel.

5 14.

6 Plaintiffs reallege paragraphs 1 through 12, herein.

7 15.

8 As a consequence of defendant's negligence and each of them, Plaintiff
9 Holly Nagel has lost consortium, and will lose future consortium, all to her
10 economic damages in the amount of \$250,000.

11 16.

12 As a further consequence of Defendant's negligence and each of them,
13 Plaintiff Holly Nagel has lost consortium, and will lost future consortium, all to
14 her non-economic damages in the amount of \$250,000.00.

15
16
17 WHEREFORE, Plaintiffs pray the court for judgment against the
18 Defendants, and each of them as follows:

19 Under the FIRST CLAIM FOR RELIEF (Medical Negligence), Plaintiff Scott
20 Nagel prays for Economic damages in the amount of \$912,300; Non-economic
21 damages in the amount of \$3,000,000; and Plaintiff Scott Nagel's costs and
22 disbursements incurred herein.

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2
3 Under the SECOND CLAIM FOR RELIEF (Loss of Consortium), Plaintiff
4 Holly Nagel prays for Non-Economic damages in the amount of \$500,000; and
5 costs and disbursements incurred herein.

6 Dated: December 9, 2014.

7 /s/ Gregory Kafoury

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14 Attorneys for Plaintiff

15 Plaintiff hereby provides notice of her intent to amend to include a claim
16 for punitive damages.
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