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14 DEC 17 AM 9:01
FOR THE MULTNOMAH COUNTY

IN THE CIRCUIT COURT OF THE STATE OF OREGON **14CV19569**
FOR THE COUNTY OF MULTNOMAH

MARY D. CLEMANS,
Plaintiff,
v.

KAISER PERMANENTE, STELLA
MARIE DANTAS, M.D., CAROL CHIU,
M.D. and JANE/JOHN DOE 1-5
Defendants.

Case No. **COMPLAINT
MEDICAL NEGLIGENCE**

Amount \$330,000.00

Or Laws 2012, ch. 48, sec. 2;
ORS 21.160(1)(c)

Not Subject to Mandatory Arbitration

Demand for Jury Trial

Plaintiff, MARY D. CLEMANS, by and through her attorney of record states as follows:

PARTIES

1.

Plaintiff Mary D. Clemans ("Plaintiff" or "Ms. Clemans") is a resident of Carlton,
Oregon, in Yamhill County, Oregon.

2.

Defendant Kaiser Permanente (herein "Kaiser") is an integrated managed care
consortium based in Oakland California, and licensed to do business in the State of Oregon, with
offices in Multnomah, Washington, and Clackamas Counties.

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3.

Defendant Stella Marie Dantas M.D. (Defendant “Dantas”) is an Obstetrician-Gynecologist licensed to practice medicine in the State of Oregon.

4.

Defendant Carol Chiu M.D. (Defendant “Chui”) is an Obstetrician-Gynecologist licensed to practice medicine in the State of Oregon.

5.

At all times material herein, unknown defendants Jane/John Does 1-5 (“Unknown Defendants”) are employees, agents, apparent agents and/or representatives of Kaiser who provided medical treatment to Ms. Clemans on or about January 23, 2013. Unknown Defendants were acting within the course and scope of such employment, agency, apparent agency and/or representation when performing the negligent acts on Ms. Clemans as referenced below.

6.

At all material times, Defendants owed a duty to plaintiff to use, at a minimum, the standard of care, skill, and diligence used by ordinary, careful medical providers in the same field, in the same or similar circumstances, in the same or similar community.

STATEMENT OF FACT

7.

Plaintiff underwent a Hysteroscopy D & C and IUD implantation (the “surgery”) on January 23, 2013. The surgery was performed by Defendants Chiu and Dantas at Kaiser Permanente, Sunnybrook, in Clackamas County, Oregon.

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8.

Due to a history of back spasms, Ms. Clemans asked to be positioned for the procedure before sedation. She requested that her doctors place her in a low lithotomy position during the surgery to reduce the risk of injury.

9.

Ms. Clemans was not positioned while awake and not positioned in a low risk position as requested. She was given anesthesia before positioning. Ms. Clemans awoke from surgery in intense pain and could not feel her right leg.

10.

Plaintiff continued to experience numbness and a cold sensation in her right leg. She had pain in her lower back and inner-right calf where her leg had been placed in the stirrup during the surgery. She was prescribed Oxycodone for the pain.

11.

In a telephone conversation on or about January 31, 2013, Defendant Dantas explained to Ms. Clemans that she had been placed in the low lithotomy position, per her request, during the surgery. She also told Ms. Clemans that the post-operative pain and numbness she was experiencing was unrelated to the surgery.

12.

Defendant Dantas's statement contradicts the operative notes which record that Ms. Clemans was placed in the dorsal high lithotomy position.

13.

On or about March 7, 2013, Ms. Clemans was diagnosed with a stretched or compressed nerve injury to the lumbosacral plexus as a result of her positioning during the surgery.

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14.

On or about June 12, 2013, Ms. Clemans underwent a Lumbar Transforaminal Epidural Steroid Injection at Kaiser's Pain Clinic. At the pain clinic, Ms. Clemans was diagnosed with a bulging disk at L4.

15.

Ms. Clemans continues to suffer physically and mentally because of Defendants' negligence. The effects of being improperly positioned during the surgery cause her ongoing and excruciating pain. The injuries affect her ability to walk and participate in activities she once enjoyed. Her emotional and psychological wellbeing have suffered.

CLAIM FOR RELIEF
Medical Negligence & Vicarious Liability against all Defendants

16.

Plaintiff realleges and incorporates all previous paragraphs.

17.

Defendant Kaiser is vicariously liable by and through the actions of its employees, agents, implied agents or apparent agents, who were acting in the course and scope of their employment or agency while performing their functions and these negligent acts resulting in the injuries to Ms. Clemans.

18.

Defendants' care and treatment fell below the standard of care under the same or similar circumstances by:

- a. Failing to properly position Ms. Clemans during the surgery to avoid nerve injury;
- b. Failing to properly position Ms. Clemans during the surgery to avoid injury to the disc in her back;
- c. Failing to honor Ms. Clemans wishes to *not* be placed in high dorsal stirrups; and

1 d. Failing to position Ms. Clemans while awake as requested.

2 **DAMAGES**

3 **19.**

4 Plaintiff realleges and incorporates all previous paragraphs.

5 **20.**

6 As a direct and proximate cause of Defendants' negligence, Plaintiff has suffered
7 economic damages, including past medical expenses in the amount of \$20,000.00 and future
8 medical expenses in the amount of \$10,000.00. Both of these amounts are estimates and Plaintiff
9 reserves the right to amend them before and/or at trial.

10 **21.**

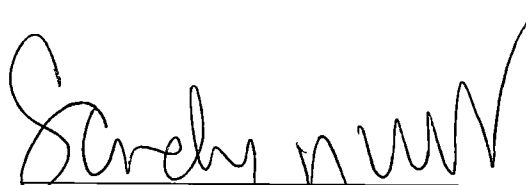
11 As a direct and proximate cause of Defendants' negligence, Plaintiff has suffered
12 noneconomic damages, including pain and suffering in the amount of \$300,000.00.

13 WHEREFORE, plaintiff prays for judgment against defendants and each of them as follows:

- 14 1) For economic damages in an amount no less than \$30,000.00;
15 2) For noneconomic damages in an amount no less than \$300,000.00;
16 3) For any other relief this court deems just and equitable.

17 DATED: December 17, 2014.

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19 LAW OFFICES OF SANDY N. WEBB, PC

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22 Sandy N. Webb, OSB No. 086527
23 Attorney for Plaintiff Mary D. Clemans
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