

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

| | | |
|--------------------------------|---|--------------------------|
| PEGGY J. SCHILLER, |) | Case No. |
| |) | |
| Plaintiff, |) | COMPLAINT AND DEMAND FOR |
| |) | JURY TRIAL |
| v. |) | (Medical Negligence) |
| |) | |
| NORTHWEST PERMANENTE, P.C., an |) | Prayer: \$525,000.00 |
| Oregon corporation; and KAISER |) | Filing Fee \$531.00 per |
| FOUNDATION HOSPITALS, INC., a |) | ORS 21.160(1)(c) |
| California corporation. |) | |
| |) | NOT SUBJECT TO MANDATORY |
| Defendants. |) | ARBITRATION |

COMES NOW Plaintiff, Peggy J. Schiller, and by way of her Complaint against Defendants, Northwest Permanente, P.C., an Oregon corporation, and Kaiser Foundation Hospitals, Inc., a California corporation, hereby alleges as follows:

FIRST CLAIM FOR RELIEF

1.

At all times material herein, defendant Northwest Permanente, P.C. was an Oregon professional corporation consisting of physician members practicing in various specialties as employees and agents (actual or apparent) of such defendant, and providing medical care and treatment to patients.

2.

At all times material herein, Defendant Kaiser Foundation Hospitals, Inc. was a California corporation licensed to do business in the State of Oregon and engaged in the business of operating hospital and other medical facilities in Oregon, including Kaiser Permanente Sunnyside Medical Center and Regional Processing Center (hereinafter

1 “Sunnyside Medical Center”). It employs nurses, physicians assistants, technologists and
2 other health professionals who provide and/or assist in providing medical care to its
3 patients and patients of Defendant Northwest Permanente, P.C. , all of whom act as its
4 employees or agents (actual or apparent).

5 3.

6 At all times material herein, Defendants Northwest Permanente, P.C. and Kaiser
7 Foundation Hospitals, Inc. have engaged in the joint venture or collective enterprise of
8 providing medical care and services to patients through physician members of Defendant
9 Northwest Permanente, P.C. and non-physician medical providers employed by either
10 defendant Northwest Permanente, P.C. or defendant Kaiser Foundation Hospitals, Inc.,
11 both of which will be collectively referred to hereinafter as “Defendant Kaiser.”

12 4.

13 At all times material herein, Defendant Kaiser was acting by and through its
14 employees and/or agents (actual or apparent) who were acting within the course and
15 scope of their employment and/or agency.

16 5.

17 At all times material herein, Plaintiff Peggy J. Schiller was a patient of Defendant
18 Kaiser.

19 6.

20 Various employees or agents of Defendant Kaiser recommended that Plaintiff
21 undergo elective surgery to improve her vision, which had been affected by cataracts.
22 On or about September 12, 2013, at Sunnyside Medical Center, Defendants performed
23 the surgery, known as Phacoemulsification, posterior chamber intraocular lens (PCIOL),
24 on Plaintiff's left eye. Following surgery, Plaintiff developed extreme and painful
25 pressure in her eye, light sensitivity, swelling and other symptoms which placed her at
26 significant risk of permanent vision loss due to glaucoma, if not adequately treated.

1 7.

2 Defendants performed tests to measure Plaintiff's intraocular pressure and found
3 it to be dangerously high, but did not take steps to lessen, control and/or monitor that
4 pressure. In an apparent effort to diagnose and/or treat Plaintiff's postoperative
5 symptoms, Defendants also performed a YAG capsulotomy, which caused additional
6 damage to Plaintiff's left eye, resulting in additional vision loss.

7 8.

8 By January 2014, the visual field in Plaintiff's left eye had been reduced by
9 approximately 65% due to Defendants' treatment, or lack thereof. In February 2014,
10 Defendants referred plaintiff to the Casey Eye Institute, where it was determined that
11 one of the haptics placed by Defendants during surgery on September 12, 2013 had not
12 been fastened to the capsule, thus was hanging loose. This was the cause of Plaintiff's
13 ongoing symptoms. It resulted in permanent damage to Plaintiff's eye and vision and
14 increasing loss of visual field. Attempts by Defendants to surgically repair the loose,
15 malpositioned haptic were unsuccessful in lowering Plaintiff's intraocular pressure and
16 stopping the ongoing deterioration of her eye and vision.

17 9.

18 In June, 2014, Defendants told Plaintiff that her left eye had been so damaged by
19 their failure to control her intraocular pressure and inflammation, and the multiple
20 surgical interventions, that it there was essentially nothing they could do to restore her
21 vision or prevent the continuing, progressive loss of vision.

22 10.

23 Defendants were negligent in one or more of the following ways that caused or
24 contributed to Plaintiff's injuries:

- 25 (a) In failing to diagnose prior to February, 2014 that one of the haptics placed
26 in her eye during the September, 2013 surgery was not attached to the

capsule and was causing her ongoing symptoms, including increased intraocular pressure;

(b) In failing to repair the detached haptic before Plaintiff suffered permanent vision loss;

(c) In failing to aggressively treat and control Plaintiff's increased intraocular pressure and inflammation so as to eliminate or minimize the risk of permanent vision loss from glaucoma;

(d) In failing to refer Plaintiff to the Casey Eye Institute or other specialty center for evaluation prior to February 2014 and prior to the significant visual field loss;

(e) In failing to monitor and timely assess Plaintiff for signs and symptoms of deteriorating visual field and increased intraocular pressure;

(f) In failing to investigate the reasons for Plaintiff's increasing signs and symptoms of elevated intraocular pressure by performing ultrasound or other imaging in a timely fashion prior to February, 2014;

(g) In failing to timely respond to Plaintiff's deteriorating visual condition as documented in Defendants' records;

(h) In failing to promptly investigate and/or replace the hemovac drain when it stopped functioning properly; and

(i) In performing a YAG capsulotomy and other ineffective surgical procedures that did not correct the detached haptic and caused additional damage to Plaintiff's eye and vision.

12.

As a result of Defendants' negligence, Plaintiff Peggy Schiller sustained permanent damage to the vision in her left eye, as well as the eye itself, resulting in substantial loss of vision and other problems including but not limited to, pain, lack of mobility and

1 independence.

2 13.

3 The injuries alleged above have caused Plaintiff Peggy Schiller non-economic
4 damages in the approximate amount of \$450,000.00.

5 14.


6 The injuries alleged above have caused Plaintiff Peggy Schiller economic damages
7 in the form of medical, surgical and medication expenses, as well as medical expenses to
8 be incurred in the future, in the approximate amount of \$75,000.00. (Plaintiff reserves
9 the right to adjust or amend these figures as discovery progresses.)

10 WHEREFORE, Plaintiff Peggy Schiller prays for judgment against defendants, and
11 each of them, in the following amounts:

- 12 1. Non-economic damages in an amount not to exceed of \$450,000.00;
13 2. Economic damages in the approximate amount of \$75,000.00; and
14 3. Plaintiffs' costs and disbursements incurred herein.

15 DATED this 6 day of January, 2014.

16 MILLER & WAGNER, LLP
17 Trial Lawyers

18 
19 David K. Miller, OSB No. 823370
20 Attorneys for Plaintiff
21 Trial Attorney: David K. Miller, OSB #823370

22 PLAINTIFF HEREBY DEMANDS
23 A JURY TRIAL

24 
25 David K. Miller, OSB No. 823370
26