

ORIGINAL

LAW OFFICE OF MATSON KELLEY
A Limited Liability Company

MATSON KELLEY 8129
24 N. Church Street, Suite 202
Wailuku, Hawaii 96793
Telephone: (808) 244-4994
Facsimile: (800) 948-7344
Attorney for Plaintiff

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N. MARTINS, CLERK
SECOND CIRCUIT COURT
STATE OF HAWAII

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

WALTER KAN HAI III,

Plaintiff,

vs.

JED I. ALAIMALO, M.D., KAISER
FOUNDATION HEALTH PLAN, INC.,
DOE CORPORATIONS 1-5, DOE ENTITIES
1-5, JOHN DOES 1-5, JANE DOES 1-5,

Defendants.

CIVIL NO. 15-1-0491(1)
(OTHER NON-VEHICLE TORT)
Medical malpractice
COMPLAINT; SUMMONS

COMPLAINT

Comes Now Plaintiff WALTER KAN HAI III, by and through his counsel, Matson Kelley, and hereby submits the following Complaint against the above-named Defendants, and complains and alleges as follows:

PARTIES AND JURISDICTIONAL ALLEGATIONS

1. This lawsuit seeks compensation for the serious personal injuries and financial losses suffered by Plaintiff WALTER KAN HAI III ("Mr. Kan Hai" or "Plaintiff") as a result of malpractice and misdiagnosis by Defendants JED I. ALAIMALA, M.D., and KAISER FOUNDATION HEALTH PLAN, INC.

PAID

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2. At all times relevant herein, Plaintiff was a citizen and resident of the County of Maui, State of Hawaii.

3. Defendant KAISER FOUNDATION HEALTH PLAN, INC. ("Defendant Kaiser") is, and at all relevant times was, a foreign nonprofit corporation that established and maintained comprehensive, pre-paid direct service health care plans in the County of Maui, State of Hawaii.

4. Defendant JED I. ALAIMALO, M.D. (hereinafter "Defendant Alaimalo") is, and at all relevant times was, a physician licensed to the practice of medicine, and engaging in the practice of medicine in the County of Maui, State of Hawaii.

5. All acts of medical negligence by individuals herein were by employees and/or agents and/or borrowed employees and/or agents on a mission for the benefit of Defendant Kaiser. Defendant Kaiser is vicariously liable for the acts of any of their employees and/or agents and/or borrowed employees or agents on a mission for the benefit of Defendant Kaiser.

6. Plaintiff has diligently and in good faith attempted to ascertain the names and identities of possible Defendants whose identities are presently unknown to Plaintiff. Such attempts include obtaining an applicable incident report made as a result of the occurrence complained of and contacting all presently known witnesses to the said occurrence.

Despite the foregoing, the identity of other Defendants, whose conduct may have been a substantial factor or a proximate cause of Plaintiff's damages and losses, remain unknown to Plaintiff.

Plaintiff alleges, on information and belief, that directly or indirectly, the conduct of other Defendants, presently unknown to Plaintiff, was or may have been a cause of the occurrence complained of, and/or the damage or loss thereby sustained by Plaintiff, as a result of which all Defendants, unidentified and identified, may be legally, jointly, and severally liable to Plaintiff

for said injuries and losses sustained inasmuch as the conduct of each Defendant may have coincided and/or concurred with that of each and every other Defendant, named or unnamed.

7. All events mentioned herein occurred within the jurisdiction of the Circuit Court of the Second Circuit, State of Hawaii.

8. The jurisdictional requirements of Chapter 671, Hawaii Revised Statutes, have been met.

**COUNT I – Misdiagnosis
(DEFENDANT ALAIMALO)**

9. Plaintiffs reallege and incorporate by reference paragraphs 1 through 8 above as though fully set forth herein.

10. Mr. Kan Hai was a patient of Defendant Kaiser for approximately fifteen (15) years; he suffered from diabetes and hypertension; his medical record shows a progressive deterioration of his health with diabetic complications, including kidney disease.

11. On or about September 17, 2013 Mr. Kan Hai's primary care physician was Defendant Alaimalo. Blood work was performed, and the result of this testing showed advanced end stage renal disease.

12. On September 26, 2013 Mr. Kan Hai was treated by Defendant Alaimalo. Mr. Kan Hai complained to Defendant Alaimalo that he was not feeling well for a week and that he had chills, ear pain, cough, and shortness of breath.

13. Although Mr. Kan Hai's laboratory tests showed that he had end stage renal disease, Defendant Alaimalo was misdiagnosed with bronchitis and an infection, and then sent home with instructions to make an appointment in six (6) weeks.

14. Defendant Alaimalo failed to diagnose Mr. Kan Hai with advanced/end stage renal disease and/or treat Mr. Kan Hai for advanced/end stage renal disease.

15. Mr. Kan Hai collapsed on September 30, 2013 and was taken to hospital, at which time he was diagnosed with stage four renal disease.

16. Defendant Alaimalo owed a duty to Mr. Kan Hai as his physician to have the knowledge and skill ordinary possessed, and to exercise the care and skill ordinarily used by a physician practicing the same field under similar circumstances.

17. Defendant Alaimalo's breached the standard of care when treating Mr. Kan Hai because he misdiagnosed Mr. Kan Hai's medical condition on September 26, 2013 and did not appropriately treat Mr. Kan Hai for his medical condition.

18. As a direct, legal, and proximate result of Defendants' breach of the standard of case, Mr. Kan Hai sustained grievous bodily injuries, psychological trauma, pain and suffering, mental and emotional distress, and loss of enjoyment of life, all of a probably severe and permanent nature, and to Mr. Kan Hai's damage, in an amount to be shown at time of trial.

19. As a further direct, legal, and proximate result of Defendants' aforesaid breach of the standard of care, Mr. Kan Hai has sustained loss of income and impairment of earning capacity and anticipates further loss of income in the future, all to Mr. Kan Hai's damage in an amount to be shown at time of trial.

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as follows:

1. Special damages in an amount as shall be shown at time of trial;
2. General damages in an amount as shall be shown at time of trial;
3. Costs of suit and reasonable attorney's fees;

4. Pre-judgment interest;

5. Such other and further relief as this Court deems just and proper pursuant to Rule 54 of the Hawaii Rules of Civil Procedure.

Dated at Wailuku, Maui, Hawaii, September 15, 2015.

MATSON KELLEY
Attorney for Plaintiff
WALTER KAN HAI III