

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

MICHAEL SMITH and BRITTANY SMITH,

Plaintiffs,

v.

KAISER FOUNDATION HEALTHPLAN OF  
THE NORTHWEST; and OREGON  
CORPORATION DBA AS KAISER  
PERMANENTE,

Defendants.

Case No.

COMPLAINT FOR MEDICAL  
NEGLIGENCE/LOSS OF CONSORTIUM

CLAIM NOT SUBJECT TO MANDATORY  
ARBITRATION

JURY TRIAL REQUESTED

TOTAL PRAYER AMOUNT: \$2,800,000.00  
Fee authority: ORS 21.160 (1)(d)

Plaintiff alleges:

1.

At all times material herein, defendant Kaiser Foundation Healthplan of the Northwest was an Oregon Corporation existing under the laws of the state of Oregon and engaged in the business of providing medical care and treatment for patients.

2.

At all times material herein, plaintiff Michael David Smith was a patient of defendant Kaiser Foundation Healthplan of the Northwest.

3.

At all times material herein, plaintiff Michael David Smith received medical care for himself exclusively from defendant and their employees.

1 4.

2 On or about October 29, 2001, defendant and its employee, Nurse Practitioner Craig  
3 Schultz, ordered Hepatitis C testing because plaintiff Michael David Smith had complaints of  
4 generalized abdominal pain.

5 5.

6 The after visit summary of October 29, 2001, stated the patient would be provided more  
7 information if the Hepatitis C were positive.

8 6.

9 Plaintiff Michael David Smith continued to receive his medical care exclusively from  
10 Kaiser Permanente.

11 7.

12 Unbeknownst to plaintiff Michael David Smith, the test results of November 14, 2001,  
13 were positive for Hepatitis C.

14 8.

15 Defendant did not inform plaintiff that he had Hepatitis C until February 20, 2015.

16 9.

17 From October 29, 2001, to the present, plaintiff's Hepatitis C went untreated.

18 10.

19 Because plaintiff's Hepatitis C went untreated, plaintiff recently developed Stage 3  
20 Fibrosis of the liver.

21 11.

22 As a result of the delay in diagnosis and recent treatment, plaintiff has developed liver  
23 cancer and further treatment is unlikely to be successful.

24 12.

25 Defendant, acting by and through its employees, was negligent in one or more of the  
26 following particulars:

27 a. In failing to diagnosis and treat plaintiff for Hepatitis C;

1 b. In failing to inform plaintiff he had Hepatitis C.

2 13.

3 As a result of defendant and its employees' negligence, plaintiff Michael David Smith  
4 was caused physical and mental pain and suffering and loss of liver function.

5 14.

6 Defendant's negligence increased the risk of harm to plaintiff by reducing his chance of  
7 survival and life expectancy, plaintiff will require extensive medical care in the future, and  
8 plaintiff has sustained physical and emotional pain and suffering; plaintiff's injuries are  
9 permanent and permanently disabling. Plaintiff has sustained noneconomic damages in the  
10 sum of \$2,000,000.00.

11 As a result of the negligence of defendant and its employees, plaintiff will lose future  
12 income and earning capacity in the sum of \$300,000.00.

13 SECOND CLAIM FOR RELIEF  
14 LOSS OF CONSORTIUM

15 16.

16 Plaintiff realleges paragraphs 1-12.

17 17.

18 Plaintiff Brittany Smith is the spouse of plaintiff Michael David Smith, and has been his  
19 spouse at all times relative to this complaint.

20 18.

21 As a result of the negligence of defendants and their employees, plaintiff Brittany Smith  
22 has suffered a loss of consortium and consequent emotional distress. Defendant's negligence  
23 has injured plaintiff Brittany Smith in the sum of \$500,000.00.

24 / / /

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1  
2 WHEREFORE, plaintiff prays for a judgment against defendants as follows:

3 FIRST CLAIM FOR RELIEF in the sum of \$2,000,000.00, as and for non-economic  
4 damages, together with the sum of \$300,000.00, as economic damages and for plaintiff's costs  
5 and disbursements incurred herein;

6 SECOND CLAIM FOR RELIEF in the sum of \$500,000.00, as and for non-economic  
7 damages, and disbursements incurred herein.

8  
9 DATED this 14 day of October, 2015.

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12 Jon A. Zbinden, OSB No. 824386  
13 of Attorneys for Plaintiff  
14 jon@zbinden-curtis.com  
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