

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

ANDREA MICHELLE SELBY, an) Case No.:
incapacitated person, by and through)
her Guardians DAVID SELBY and) COMPLAINT FOR NEGLIGENCE AND
DEBORAH SELBY,) PERSONAL INJURY (NON-AUTO);
)
Plaintiff,) (NOT SUBJECT TO MANDATORY
) ARBITRATION)
vs.)
) PRAYER: \$8,200,000
KAISER FOUNDATION HEALTH PLAN)
OF THE NORTHWEST, an Oregon) JURY TRIAL DEMANDED
corporation, dba KAISER)
PERMANENTE; and NORTHWEST) ORS 21.160(1)(d) - \$793
PERMANENTE, P.C., an Oregon)
corporation,)
Defendants)

Plaintiff demands a jury trial and alleges:

1.

Dr. David Selby and Deborah Selby are the natural parents and duly-appointed guardians for their daughter, Andrea Michelle Selby, a legally-incapacitated and protected person.

2.

At all times mentioned herein, defendant Kaiser Foundation Health Plan of the Northwest, DBA Kaiser Permanente (hereinafter, "Kaiser") was an Oregon

1 corporation providing hospital care and services to patients in the Portland
2 Metropolitan area at hospital facilities owned and operated by defendant
3 Kaiser, including Kaiser Permanente Sunnyside.

4 3.

5 At all times mentioned herein, defendant Northwest Permanente, P.C.
6 (hereinafter, "Northwest Permanente"), was an Oregon corporation consisting of
7 physicians, shareholders, and employees providing medical services in the
8 Portland metropolitan area at facilities owned and operated by defendant
9 Kaiser.

10 4.

11 All conduct including actions and failures to act alleged herein against
12 defendants were done by employees, agents, or apparent agents of defendants
13 who were then and there acting within the course and scope of such
14 employment, agency, or apparent agency.

15 5.

16 In 2014, plaintiff Andrea Selby was a patient of defendants, and was
17 being treated for delusions, and was known by defendants to be suffering from
18 severe and menacing delusions, and was known to have harmed herself, and
19 defendants knew or had reason to know she was at great risk of inflicting
20 severe physical harm upon herself.

21 6.

22 Deborah Selby was in regular contact with defendants during early June,
23 2014, while her daughter, Andrea, was at Kaiser Sunnyside Brookside

1 Psychiatric Hospital, and she repeatedly implored the staff to take all necessary
2 precautions to protect her, including not discharging her, and Deborah Selby
3 told them that Andrea was at great risk of causing herself severe harm.

4 7.

5 Defendants refused to place a psychiatric hold on Andrea Selby, claiming
6 that she was not suicidal, and discharged her from care. Dr. Selby persuaded
7 Andrea to return to the hospital and persuaded the hospital to accept her, but
8 within 24 hours defendant staff discharged her again, all without notifying Dr.
9 or Mrs. Selby.

10 8.

11 On or about June 6, 2014, Andrea Selby returned to defendant's
12 emergency room at Sunnyside shortly after being released and asked to be re-
13 admitted. She spent the entire night in the ER lobby, seeking admission. At
14 11 a.m. the next morning, Andrea Selby was physically escorted from the
15 hospital by security upon order of the defendants, and during her escort,
16 Andrea told defendant's security people that she was going to jump off the
17 hospital's three-story east parking structure. In the presence of security,
18 Andrea Selby put the duffle bag which had all of her belongings in it into a
19 trash can, explaining to Kaiser security that she did not need them anymore,
20 and told security that she was "hearing voices." Security then learned that
21 shortly thereafter, Andrea Selby had set her hair on fire; she then returned to
22 defendant's property, and fell to the ground in the presence of defendant's
23

1 security. She then walked into the Kaiser parking structure, walked up to the
2 third floor rooftop, and leapt off, suffering catastrophic injuries.

3 9.

4 A cause of all injuries described herein was the negligence of agents or
5 employees of defendants in one or more of the following particulars:

6 (a) In discharging plaintiff from care when defendants knew or had to
7 reason to know that she was tormented by delusions and at unreasonable risk
8 of harming herself;

9 (b) In failing to escort plaintiff back to the hospital to report her threat
10 to jump off the parking structure;

11 (c) In failing to provide information to plaintiff's parents regarding her
12 mental and physical status during June 6 and 7 of 2014;

13 (d) In failing to provide medication to Andrea Selby appropriate to her
14 psychiatric needs;

15 (e) In failing to re-hospitalize her or obtain medical care for her after
16 observing self-destructive behavior.

17 10.

18 As a result of the negligence of defendants as described above, plaintiff
19 suffered traumatic brain injury, blunt trauma throughout her body, pelvic
20 fracture, gross hematuria, fracture of the right femur, ruptured bladder, pelvic
21 hematoma, and suffered, continues to suffer, and may permanently suffer from
22 cognitive impairment, virtually complete memory loss of recent events more
23 than a few minutes old, chronic pain, incontinence, disability, and impairment

1 of family relationships, the need to be institutionalized because of her inability
2 to care for herself, and profound sense of sadness and loss, all to her
3 noneconomic damages in the amount of \$8,200,000.

4 11.

5 As a further result of the above-described injury, plaintiff suffered
6 medical and institutional expenses in an amount to be determined, and will in
7 the future suffer medical and institutional expenses for her care, all in an
8 amount to be determined at trial.

9 12.

10 By agreement of the parties, the statute of limitation was tolled for 90
11 days from the two-year anniversary of the injury.

12 13.

13 At the time the cause of action accrued in this case, Andrea Michelle
14 Selby was suffering from a disabling mental condition that barred her from
15 comprehending her rights which she otherwise would have understood, and
16 that condition has continued from the time of the injury to the time of the filing
17 of this case.

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1 WHEREFORE, plaintiff prays for judgment against defendants in the
2 amount of \$8,200,000 in noneconomic damages, and economic damages in an
3 amount to be determined, and for her costs and disbursements necessarily
4 incurred herein.

5 Dated: August 8, 2016.

6 /s/ Gregory Kafoury

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13 Attorneys for Plaintiff

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