

Unlimited



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FILED
ALAMEDA COUNTY

AUG 12 2016

CLERK OF THE SUPERIOR COURT
By Charles Allen Deputy

Plaintiff,
FALASTIEN SADOON
in *pro per*

SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

SOUTHERN DIVISION

Unlimited Civil Jurisdiction

FALASTEIN SADOON
and DOES 1 to 5, inclusive,

IR'G 16827195
CASE NO. _____

Plaintiffs,

COMPLAINT FOR DAMAGES
(PROFESSIONAL NEGLIGENCE)
AND WRONGFUL DEATH

v.

KAISER PERMANENTE, CHARLES CHOU, MD.,
and DOES 1 TO 25

Defendants

Plaintiff complains of Defendants and for each cause of action alleges as follows:

FOR THE FIRST CAUSE OF ACTION

PROFESSIONAL NEGLIGENCE

(KAISER PERMANENTE (hereinafter "KP"), any Kaiser related entities with responsibility
for the allegations contained herein, CHARLES CHOU, M.D., and DOES 1 TO 25 BEING
DULY LICENSED PHYSICIANS - ONLY)

1. Plaintiff was the spouse of Mohammad Sadoon, deceased, at the time of his
wrongful death due to medical malpractice.

2. The subject of this action is negligent medical treatment which occurred in
Alameda County, California and caused the death of Mohammad Sadoon.

3. Defendants physician(s) is/are and was/were at all relevant times herein mentioned

1 medical doctor(s) duly licensed to practice medicine in the state of California and was/were
2 doctor(s) actually practicing medicine in Alameda, California.

3 4. Defendant KP is, and was, at all relevant times herein mentioned was a medical
4 insurance organization operating hospitals and clinics organized under the laws of the state of
5 California to provide medical care to patients within and without the state of California.
6 Defendant KP maintains business locations with the County of Alameda, state of California.

7 5. Defendant CHARLES CHOU, MD. is, and at all relevant times herein mentioned
8 was, a physician licensed to practice medicine in the state of California. At all relevant times
9 herein mentioned said Defendant practiced medicine in Alameda County, California. Said
10 physician mis-diagnosed Plaintiff's medical/physical condition on or about August 2015.
11 Such mis-diagnoses continued in effect from the beginning August of 2015 to and until his
12 death on August 12, 2015 when a post mortem proper diagnoses revealed that the
13 diagnose(s), was/were in error and in fact, such misdiagnosis(es) caused the death of
14 Mohammad Sadoon. He suffered from a severe drop in plateletes and was erroneously
15 diagnosed as suffering from liver cancer. In fact, he was suffering from another illness and
16 the treatment provided him hastened his death and prevented treatment which would have
17 prolonged his life.

18 6. At all relevant times herein mentioned Plaintiff is, and was, a resident of Alameda
19 County, California.

20 7. At all relevant times herein mentioned Mohammad Sadoon was a resident of
21 Alameda County, California.

22 8. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as
23 DOES I through 25, inclusive, and therefore sues these Defendants by such fictitious names.
24 Plaintiff will amend this complaint to allege their true names and capacities when
25 ascertained.

26 9. Plaintiff is informed and believes and thereon alleges that, at all relevant times
27 herein mentioned, each of the Defendants sued herein as "Doe" was the agent and employee
28

1 of each of the remaining Defendants and was at all times acting within the purpose and scope
2 of such agency and employment.

3 10. Defendants KP, CHARLES CHOU and Does 1 to 25, inclusive, were the legal
4 and proximate cause of injuries, damages and the death of Mohammad Sadoon, by the
5 following acts or omissions occurring from on or about August 1, 2015 to and continuing
6 through his death on August 12, 2015 in Alameda County, state of California.

7 11. Said Defendants were at all relevant times herein mentioned licensed health care
8 facilities, physicians and surgeons licensed by the state of California to practice medicine and
9 surgery with a location in the County of Alameda, state of California for that purpose. Said
10 Defendants, held themselves out as possessing the degree of skill and competence common to
11 medical practitioners in said community. Said Defendants also were the treating physicians
12 and surgeons for Mohammad Sadoon.

13 12. From on or about August 1, 2015 to August 12, 2016, the day of Mohammad
14 Sadoon's death, he consulted with Defendants for the purpose fo obtaining diagnosis and
15 treatment of medical condition adversely affecting his health. Mohammad Sadoon offered
16 and Defendants accepted consideration as compensation for their diagnosis and treatment.
17 From on or about August 1, 2015 to and continuing through August 12, 2016, Defendants
18 and Does with and through their duly authorized agent Defendant KP mis-diagnosed
19 Mohammad Sadoon's state of health. Such mis-diagnoses caused him to suffer pain and
20 unnecessary treatment. Said Defendants performed diagnoses and treatment in a negligent
21 and careless manner and without following proper and medically necessary procedures which
22 culminated in the mis-diagnoses of Plaintiff's spouse, Mohammad Sadoon, which failed to
23 discover that he was actually suffering from another undetected illness which soon thereafter
24 caused his death. Due to the negligence of Defendants, and each of them, and the lack of
25 proper treatment, his original medical condition worsened over time causing him to suffer
26 physical deficits, substantial lack of strength, pain and general disability. But for the mis-
27 diagnoses by Defendants, and each of them, which resulted in the death of Plaintiff's spouse,

1 Mohammad Sadoon, his life would have been prolonged. But for the mis-diagnosis(es) he
2 could have had proper care in a timely manner and his condition could have been properly
3 treated maintaining his life. Because of the negligence of Defendants, and each of them,
4 Plaintiff's spouse would have lived much longer.

5 13. In or about August 2015 Plaintiff's spouse sought diagnosis and treatment from
6 the Defendant KM in Alameda County and rendered a diagnosis or diagnoses which were in
7 error. On or after August 12, 2015 Mohammad Sadoon's condition was determined and it
8 was revealed that KM, CHARLES CHOU, MD and other of KM's treating physicians had
9 mis-diagnosed his medical condition causing his death.

10 14. As a legal and proximate result of the above negligent actions Mohammad
11 Sadoon suffered physical deficits, paid and general disability. His estimated lifetime was
12 compromised and reduced as a direct result of Defendants, and each of their, negligence.

13 15. As a legal and proximate result of the above negligent actions Plaintiff herein
14 suffered the loss of her spouse, suffered psychological pain, grief, and economic loss.

15 16. Due to the professionally related negligence of Defendants, and each of them,
16 Mohammad Sadoon suffered unnecessary extensive medical treatment, hospitalization and
17 medication. Such negligence also resulted in great mental and physical pain and suffering,
18 embarrassment and humiliation, loss of enjoyment of life, mental anguish and other damages,
19 including but not limited to, emotional distress damages, losses and expenses related to the
20 mis-diagnoses and shortened his normal life span.

21 17. Due to the professionally related negligence of Defendants, and each of them,
22 Plaintiff suffered emotional paid and anguish, the loss of her husband and the loss of his love
23 and comfort and the loss of his economic contribution to the family unit.

24 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of
25 them, as hereinafter set forth.

26 **FOR THE SECOND CAUSE OF ACTION**

27 **PROFESSIONAL NEGLIGENCE**

(CHARLES CHOU, MD)

18. Each and every allegation contained in paragraphs 1 to 17 of this complaint are incorporated herein by reference as if fully set forth herein.

19. In or about August of 2016, Mohammad Sadoon consulted with Defendant, a physician for the purpose for obtaining diagnosis and treatment of medical condition adversely affecting his health. Mohammad Sadoon offered and Defendant accepted consideration as compensation for diagnosis and treatment. On or about August 1, 2015 and continuing through his death on August 12, 2015, Defendant with and through a duly authorized agent, Defendant KP, mis-diagnosed Mohammad Sadoon's condition. Said Defendant's duty was to properly diagnoses his medical condition by using proper equipment and procedures. Defendant was duty bound to detect Mohammad Sadoon's actual condition. Defendant breached this duty by failing to make a proper diagnosis. Such failure is, and was, a breach of the standard of care or is conduct which falls below that conduct which an ordinarily prudent physician would do to ensure the safety of a patient.

20. Defendant performed the diagnoses in a negligent and careless manner without following proper and medically necessary procedures which culminated in failing to discover his actual condition which, in turn, caused his premature death.

21. As a legal and proximate result of the above negligent actions Plaintiff has suffered pain, anguish, loss of love and companionship and economic loss. Such negligence also resulted in great mental and physical pain and suffering, loss of enjoyment of life, mental anguish and other damages, including but not limited to, emotional distress damages, losses and expenses related to his premature death loss of present and future economic contribution, early and premature burial expenses due to the shortening of what would be Mohammad Sadoon's normal life span.

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as hereinafter set forth.

FOR THE THIRD CAUSE OF ACTION

1 PROFESSIONAL NEGLIGENCE

2 (DEFENDANT KP ONLY)

3 22. Each and every allegation contained in paragraphs 1 to 21 of this complaint are
4 incorporated herein by reference as if fully set forth herein.

5 23. Defendant KP is a health care provider as defined by CCP, Section 340.5 and
6 committed a negligent act or omission in the rendering of professional services, which act or
7 omission actually and proximately caused personal injury to the person of Plaintiff.

8 24. At all times herein mentioned Defendant KP provided services within the scope
9 of services for which that provider is licensed and which are not within any restriction
10 imposed by any licensing agency.

11 25. Defendant PK provides 24-hour patient care for patients. In providing patient
12 care, Defendant owed its patients and Plaintiff a duty to exercise such reasonable care in
13 treating Plaintiff's spouse as his condition required. Defendant KP owed Plaintiff a duty to
14 use reasonable care and diligence in safeguarding Plaintiff's spouse committed to its charge.

15 26. Defendant KP also is under a duty to observe and know the condition of its
16 patient. Defendant KP at all relevant times herein mentioned is and was in the business of
17 caring for persons such as Plaintiff, and its conduct must be in accordance with that of a
18 person of ordinary prudence under the circumstances, a vital part of those circumstances
19 being the fact that Plaintiff's spouse was suffering from a medical condition. It is peculiarly
20 the business of hospitals to guard patients including Plaintiff's spouse against the dangers
21 created by physicians who ignore its patients complaints and fail to take necessary steps to
22 determine an accurate diagnosis.

23 27. Defendant KP breached all of the duties of due care alleged *infra* by *inter alia*,
24 failing to take necessary steps in determining an accurate diagnosis and treatment protocol
25 resulting in Plaintiff's spouse suffering a deteriorating condition without time to take
26 remedial measures to minimize the damages sustained to Plaintiff's spouse as herein before
27 alleged. Defendant KP also breached its duties of due care as alleged *infra* by *inter alia*

1 failing to provide further supervision of Plaintiff's spouse while he suffered from an
2 undiagnosed condition.

3 28. Defendant KP's breach of its duties owed to Mohammad Sadoon were the actual
4 and proximate cause of injury and damages to him including, but not limited to, a delay in the
5 discovery of a critical condition caused by the professional negligence of treating physicians,
6 compromised viability of physical function, continued medical treatment, hospitalization,
7 medication physical pain and suffering, loss of enjoyment of life, mental anguish and other
8 damages.

9 29. Defendant KP's breach of its duties owed to Plaintiff, the spouse of Mohammad
10 Sadoon, is the actual and proximate cause of injury and damages to her including, but not
11 limited to, emotional pain and suffering, loss of enjoyment of life, mental anguish and other
12 damages including loss of present and future economic contribution, early and premature
13 burial expenses due to the shortening of what would be her husband's normal life span.

14 **FOR THE FOURTH CAUSE OF ACTION**

15 **NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS**

16 **(ALL DEFENDANTS)**

17 30. Each and every allegation contained in paragraphs 1 to 30 of this complaint are
18 incorporated herein by reference as if fully set forth herein.

19 31. At all relevant times herein mentioned, Plaintiff was owed a duty of due care by
20 her husband's health care providers to avoid conduct which would foreseeably cause severe
21 emotional distress to Plaintiff over the premature loss of her spouse.

22 32. Defendants, and each of them, breached their duty of due care by failing to
23 properly treat Mohammad Sadoon for his injuries. The breach of duty actually and
24 proximately caused emotional distress to Plaintiff.

25 **FOR THE FIFTH CAUSE OF ACTION**

26 **(WRONGFUL DEATH)**

27 **[DEFENDANTS KM, CHARLES CHOU MD., and DOE DEFENDANTS ONLY]**

1 33. Each and every allegation contained in the preceding paragraphs is incorporated
2 herein by reference as if fully set forth herein.

3 34. Defendants, and each of them negligently failed to accurately diagnose the
4 medical condition of Plaintiff's spouse while under a duty to do so.

5 35. Decedent, Mohammad Sadoon, entrusted his medical care to Defendants, and
6 each of them.

7 36. The negligence of Defendants, and each of them, actually and proximately caused
8 the death of Decedent herein.

9 37. As a legal and proximate result of the above negligent actions Plaintiff has
10 suffered, among other injuries, severe emotional distress, pain and suffering, loss of
11 Decedent's care and support.

12 **FOR THE SIXTH CAUSE OF ACTION**

13 (SURVIVOR ACTION)

14 [DEFENDANTS KM, CHARLES CHOU MD., and DOE DEFENDANTS ONLY]

15 38. Each and every allegation contained in the preceding paragraphs is incorporated
16 herein by reference as if fully set forth herein.

17 39. At all relevant times herein mentioned Plaintiff was the spouse of Decedent.

18 40. Prior to Decedent's death, he employed the services of Defendants, KM,
19 CHARLES CHOU, MD. and DOES.

20 41. Defendants and each of them were negligent in their treatment of Decedent by
21 breaching their respective duties as hereinbefore set forth.

22 42. Their breach of duties actually and proximately caused the wrongful death of
23 Decedent actually and proximately causing Plaintiff to suffer damages.

24 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
25 follows:

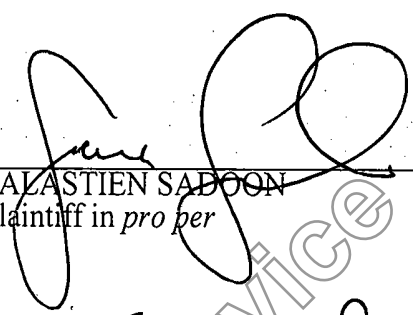
26 1. For medical special damages according to proof;

27 2. For general damages according to proof;

3. For compensatory damages according to proof; and,
4. For burial expenses according to proof;
5. Compensation for pain and suffering according to proof; and
6. For such other and further relief as the Court may deem proper.

Date AUG 12 2016

By


FALASTIEN SADOON
Plaintiff in *pro per*

FOR FALASTIEN SADOON