

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

GEORGE MELNICHUK,

Plaintiff,

v.

CATHARINA A. HOEKSEMA, M.D.,
KAISER FOUNDATION HOSPITALS, a
California corporation, NORTHWEST
PERMANENTE P.C., an Oregon
professional corporation,

Defendants.

NO.

COMPLAINT

(Medical Negligence)

CLAIM FOR \$4,650,000

ORS 21.160(1)(d)

CLAIM NOT SUBJECT TO
MANDATORY ARBITRATION

Plaintiff alleges:

1.

At all times material hereto, Catharina Hoeksema, M.D., (hereinafter "Hoeksema") was a physician licensed practice medicine in the State of Oregon, with a specialty in general surgery.

2.

At all times material hereto, defendant Kaiser Foundation Hospitals (hereinafter "Kaiser") was a California corporation doing business in the State of Oregon, operating hospitals and providing medical services to members of Kaiser Health Plans, including plaintiff.

////

////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

3.

At all times material hereto, defendant Northwest Permanente, P.C. (hereinafter "Northwest Permanente"), was an Oregon professional corporation employing physicians and other individuals to furnish health care to Kaiser Health Plan members, and providing physicians for hospitals operated by defendant Kaiser. Defendant Northwest Permanente's principal place of business is in Multnomah County, Oregon.

4.

At all times material hereto, defendants Kaiser and Northwest Permanente owned and operated the medical facility located at 19400 NW Evergreen Parkway, Hillsboro, Washington County, Oregon.

5.

On or about February 13, 2016, defendant Kaiser accepted plaintiff as a patient for diagnosis and treatment of bad stomach pains at defendants' Kaiser and Northwest Permanente's medical facility located at 19400 NW Evergreen Parkway, Hillsboro, Washington County, Oregon.

6.

Plaintiff was discharged from defendants Kaiser and Northwest Permanente's emergency department with a diagnosis of constipation.

7.

After plaintiff's discharge from defendants' Kaiser and Northwest Permanente, plaintiff's stomach symptoms persisted and he presented on or about February 17, 2016 to defendant Hoeksema for diagnosis and treatment. Defendant Hoeksema diagnosed plaintiff with acute cholecystitis and recommended surgery to treat plaintiff's condition.

////

1

8.

2

3

4

5

6

As a result of the unreasonable conduct of defendant Hoeksema as hereinafter alleged, during the course of the surgery defendant transected and severed plaintiff's portal vein and lacerated the common bile duct using a stapling device and caused other significant damage to plaintiff's liver and gallbladder anatomy.

7

9.

8

9

At all times material hereto, defendant Hoeksema, M.D. was negligent in one or more of the following particulars:

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

- (a) In failing and/or neglecting to obtain a critical view of plaintiff's gallbladder and surrounding structures prior to and while attempting to dissect the gallbladder away from surrounding structures;
- (b) In failing and/or neglecting to take an adequate history of the plaintiff when the defendant knew or reasonably should have known that the length of time the plaintiff had symptoms to inform her of the advisability of attempting a laparoscopic procedure;
- (c) In proceeding with the surgery when plaintiff's gall bladder anatomy was sufficiently inflamed, obscured, swollen and stuck together so the defendant could not see what she was cutting and stapling;
- (d) In proceeding with surgery using a stapler when defendant was unable to see which tissues and structures she was stapling;
- (e) In lacerating plaintiff's common duct, when defendant knew or reasonably should have known that the organ should not have been lacerated;

25

////

26

////

- 1 (f) In failing and/or neglecting to make adequate use of pre-surgical
2 imaging and proceeding with surgery;
- 3 (g) In failing and/or neglecting to call for surgical assistance from another
4 general surgeon when defendant knew or reasonably should have
5 known that even using an open procedure she would not be successful
6 in completing the gallbladder surgery because of ;
- 7 (h) In failing and/or neglecting to use contrast material prior to and during
8 the course of the surgery for identifying the location and size of
9 plaintiff's biliary system;
- 10 (i) In severing the common duct and the portal vein without actually
11 visualizing them prior to doing the cutting and stapling;
- 12 (j) In failing and/or neglecting to stop doing the surgery when the distorted
13 anatomy became evident;
- 14 (k) In failing and/or neglecting to discontinue plaintiff's surgery and place a
15 drain in the gall bladder until the patient healed enough to continue with
16 removal of the gall bladder; and
- 17 (l) In causing similar damage to plaintiff's liver while completing the gall
18 bladder surgery.

19 10.

20 At all times material hereto, defendants Kaiser and Northwest
21 Permanente were negligent in one or more of the following particulars:

- 22 (a) In failing and/or neglecting to diagnose plaintiff's developing acute
23 cholecystitis;
- 24 (b) In failing and/or neglecting to treat plaintiff's developing acute
25 cholecystitis;

26 ////

- 1 (c) In failing and/or neglecting to advise and warn plaintiff of his
2 cholecystitis; and
3 (d) In failing and/or neglecting to refer plaintiff to a general surgeon for
4 diagnosis and treatment of his cholecystitis.

5 11.

6 As a direct and proximate result of the negligent acts and omissions of
7 the defendants combining and concurring plaintiff's cholecystitis progressed from
8 February 13, 2016, until February 18, 2016, when defendant Hoeksema attempted a
9 choleystectomy. Because of the delay in diagnosing and treating the cholecystitis
10 plaintiff's anatomy became grossly inflamed and adhered to the structures in the area
11 and became difficult to identify. Had the cholecystitis been diagnosed and treated
12 plaintiff's choleystectomy more likely then not would have been successfully
13 completed without the complications which plaintiff underwent as a consequence of
14 the delay in diagnosing and treating the cholecystitis.

15 12.

16 As a direct and proximate result of the negligent acts and omissions of
17 the defendants combining and concurring defendant Hoeksema severed plaintiff's
18 portal vein, lacerated the common duct, and did profound and extensive damage to
19 plaintiff's liver and biliary system by using her stapler and dissecting devices. Plaintiff
20 has had to undergo four post-surgical procedures including two interventional
21 radiology procedures, a laparotomy with resection of the necrotic bile duct and a
22 portion of the extrahepatic common duct, a left hepaticojejunostomy and right
23 hepatectomy. Plaintiff has suffered profound and prolong respiratory failure,
24 hemorrhagic shock, acute kidney injury with persistent ascites and dysphagia with
25 diffuse pain, weakness, and has been hospitalized in a bed for more than several
26 months. Plaintiff has been rendered sick, sore, nervous, and emotionally distressed,

1 and the injuries to his biliary system, liver, overall health are permanent and
2 progressive all to his non-economic damages in the sum of \$3,500,000. Plaintiff has
3 to date incurred approximately 800,000 in medical expenses to date and is expected
4 to incur an additional 350,000 in continuing and future medical expenses all to his
5 economic damages approximate sum of \$1,150,000.

6 WHEREFORE, plaintiff prays for judgment against the defendant in the
7 amount of \$850,000 economic damages, \$3,500,000 non-economic damages, for his
8 costs and disbursements incurred herein, and for such other relief as the court may
9 deem just and equitable.

10 DATED this 24th day of October, 2016.

11 SOKOL & FOSTER, P.C.

12
13 By 

LARRY N. SOKOL (OSB #722475)
of Attorneys for Plaintiff
and Trial Attorney
larry@sokolfoster.com
Federal ID #93-1132983