Superior Court of California County of Orange



Case Number: 30-2016-09892712-CU-MM-CJC

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1 2 3 4 5	Susan N. Dahlin., BAR ID #198219 LAW OFFICES OF MARSHALL SILBERBERG 3333 Michelson Drive, Suite 710 Irvine, CA 92612 Telephone: (949) 718-0960 Facsimile: (949) 266-5811 Attorneys for Plaintiffs, ELECTRONICALLY FILED Superior Court of California, County of Orange 12/15/2016 at 02:48:59 PM Clerk of the Superior Court By Alan Silva, Deputy Clerk					
6	HOPE GUILLERMO and NICK GUILLERMO					
7						
8	SUPERIOR COURT OF THE STATE OF CALIFORNIA					
9 10	FOR THE COUNTY OF ORANGE					
11	30-2016-00892712-CU-MM-CJC					
12	HOPE GUILLERMO and NICK					
13	Plaintiffs,) Filed: *** Plaintiffs,) Trial: *** Judge Deborah Servino					
14	vs.					
15	KAISER FOUNDATION HOSPITALS, COMPLAINT FOR DAMAGES					
16	SOUTHERN CALIFORNIA) 1. MEDICAL NEGLIGENCE PERMANENTE MEDICAL GROUP,) 2. LOSS OF CONSORTIUM					
17	KAISER FOUNDATION HEALTH) PLAN, INC., CURTIS WONG, D.O.,) DEMAND FOR JURY					
18	MARY BULL, M.D., ASTHMA) QUDDUSI, M.D., TERN LONGACRE,)					
19	M.D. and DOES 1 to 30, inclusive,					
20	Defendants.					
21)					
22						
23	COMES NOW, plaintiffs, HOPE GUILLERMO and NICK GUILLERMO, and hereby complain					
24	against defendants, KAISER FOUNDATION HOSPITALS, SOUTHERN CALIFORNIA PERMANENTE					
25	MEDICAL GROUP, KAISER FOUNDATION HEALTH PLAN, INC., CURTIS WONG, D.O., MARY					
26	BULL, M.D., ASTHMA QUDDUSI, M.D., TERI LONGACRE, M.D., and DOES 1 to 30, inclusive, as					
27	follows.					
28	///					
	COMPLAINE					
1	COMPLAINT					

GENERAL ALLEGATIONS

- 1. At all times prior to the incident which gives rise to this claim, plaintiff HOPE GUILLERMO was a competent adult residing in the County of Orange.
- 2. Plaintiffs are informed and believe and thereon allege that each of the defendants sued herein, at all times pertinent hereto, were doing business in the County of Orange, State of California.
- 3. At all times herein mentioned, defendants, KAISER FOUNDATION HOSPITALS, SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, KAISER FOUNDATION HEALTH PLAN, INC., CURTIS WONG, D.O., MARY BULL, M.D., ASTHMA QUDDUSI, M.D., TERI LONGACRE, M.D. and DOES 1 to 30, inclusive, and each and every DOE in between, were and are now hospitals, medical facilities, medical groups, physicians, surgeons, residents, nurses, medical personnel, or other healthcare professionals duly licensed to practice their profession and/or engage in the practice of their profession in the County of Orange, State of California.
- 4. At all times herein mentioned, defendants, KAISER FOUNDATION HOSPITALS, SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, KAISER FOUNDATION HEALTH PLAN, INC., and DOES 1 to 10, inclusive, and each and every DOE in between, were and are now corporations, partnerships, sole proprietorships, joint ventures, or associations duly organized and existing under and by virtue of the laws of the State of California.
- 5. At all times herein mentioned, DOES 11 to 30, inclusive, were and are now physicians, duly licensed to practice their profession and engage in the practice of their profession in the County of Orange, State of California.
- 6. At all times herein mentioned, defendants, KAISER FOUNDATION HOSPITALS, SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, KAISER FOUNDATION HEALTH PLAN, INC., and DOES 1 to 10, and each of them, were and are engaged in the owning, operating, maintaining, managing, and engaged in rendering medical, surgical, hospital, diagnostic, nursing, and other care to the general public for compensation in the County of Orange. OC-ANAHEIM MEDICAL CENTER, which is owned, operated, and controlled by KAISER FOUNDATION HOSPITALS, SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, KAISER FOUNDATION HEALTH PLAN, INC., is a general acute care hospital within the meaning of *Health & Safety Code* section 1250,

etc. All of the acts complained of herein by plaintiffs against said defendants were done and performed by said defendants by and through their duly authorized agents, joint venturers, employees, residents, fellows, and each of whom, and all of whom, at all times mentioned herein were acting within the course, purpose, and scope of their joint venture or employment and their conduct was ratified by the remaining defendants. Further, these defendants selected and assigned physicians, residents, fellows, nurses, and other health care professionals to care for and treat the plaintiff, HOPE GUILLERMO, and through words or actions held those individuals out as agents or employees, knowing and expecting the plaintiff to rely upon those actions or words. Those individuals were the actual and ostensiole agents of these defendants.

- 7. At all times herein mentioned, defendants, KAISER FOUNDATION HOSPITALS, SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, KAISER FOUNDATION HEALTH PLAN, INC., CURTIS WONG, D.O., MARY BULL, M.D., ASTHMA QUDDUSI, M.D., TERI LONGACRE, M.D. and DOES 1 to 30, held themselves out to the general public and to plaintiffs as skilled professionals in the science of medicine, surgery, nursing, hospital care, medical attendant and related care, and said defendants held themselves out to the general public and to this plaintiff as possessing that degree of knowledge and skill customarily possessed and exercised by other physicians, surgeons, nurses, and hospital attendants engaged in the same or similar locality as that of defendants, and each of them.
- 8. The true names, identities and capacities, whether individual, associate, corporate or otherwise of defendants, DOES 1 to 30, inclusive, and each DOE in between, are unknown to plaintiffs at this time, who therefore sue said defendants by such fictitious names. When the true names and capacities of such fictitiously designated defendants are ascertained, plaintiffs will ask leave of court to amend this Complaint to insert said true names, identities, and capacities, together with the proper charging allegations. Plaintiffs are informed and believe, and thereon allege, that each of the defendants sued herein as a DOE is responsible in some actionable manner for the events and happenings herein alleged and thereby legally causing the injuries and damages to the plaintiff as hereinafter set forth.
- 9. At all times herein mentioned, each of the defendants sued herein, whether by their actual name or fictitious name, was the agent, alter ego, servant, joint venturer, or employee of each other and of the co-defendants and was, as such, acting within the purpose and scope of said agency, joint venture,

service or employment; each of the defendants, as aforesaid, whether referred by their actual names or fictitious names, when acting as a principal, was negligent in the selection, training retention, supervision, and hiring of each and every other co-defendant as an agent, servant, or employee and, furthermore, expressly directed, consented to, approved, affirmed, and ratified each and every action taken by the co-defendants.

FIRST CAUSE OF ACTION

ON BEHALF OF HOPE GUILLERMO AGAINST ALL DEFENDANTS AND DOES 1 TO 30, FOR MEDICAL NEGLIGENCE

- 10. Plaintiffs allege and herein incorporate by reference all the allegations contained in paragraphs 1 through 9 of the General Allegations section of this complaint.
- 11. Plaintiff, HOPE GUILLERMO, first came under the care of MARY BULL, MD at GARDEN GROVE MEDICAL CENTER, in May 2013. The plaintiff presented with complaints of abdominal pain, dysmenorrhea and menorrhagia. An ultrasound confirmed a large uterine fibroid. Despite several months of severe pain and bleeding the plaintiff was advised that her condition was "common" and that an endometrial biopsy was benign.
- 12. The plaintiff suffered for four months, with bleeding so severe that it resulted in syncope and anemia, requiring blood transfusions and administration of Lupron.
- 13. On September 12, 2013 Dr. Bull performed a Laser Assisted Vaginal Hysterectomy and advised the plaintiff that her pathology was "benign." Dr. Bull saw the plaintiff once in the post op period and then advised her she did not need to return for a year thereafter.
- 14. From the period April 2014 through 2015, the plaintiff returned to the doctors of Kaiser with complaints of unrelenting chest and chronic back pain.
 - 15. In July 2016, plaintiff was diagnosed with lung and liver metastasis from a leiomyosarcoma.
- 16. During said periods of time, as herein above alleged, defendants, and each of them, agreed to perform and undertook to perform for plaintiff, HOPE GUILLERMO, all services necessary which were related to plaintiff's care which included, but not limited to, examinations, imaging studies, and other procedures, and in so doing defendants, and each of them, established a physician/nurse/hospital/care giver relationship with the plaintiff, HOPE GUILLERMO, giving rise to each defendant's duty to plaintiff to

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provide skillful management of her medical care.

- 17. During said periods of time, as herein above alleged, defendants, and each of them, were negligent, careless, and unskillful in their management of plaintiff's medical care including, but not limited to, examinations, evaluations, diagnosis, care and treatment, and, specifically in failing to advise the plaintiff of her surgical options to treat and manage her uterine fibroid and bleeding, in failing to obtain proper consent, in failing to properly obtain the uterine specimen for evaluation, in failing to properly diagnose the specimen, in failing to properly inform the patient of the risks of composarcoma and in failing to properly diagnose and follow her repeated complaints for a period of over two years thereby preventing the plaintiff from obtaining timely and proper intervention and treatment.
- During said periods of time, defendants named in this cause of action negligently failed to properly advise the plaintiff of any other possible alternative methods of diagnosis or treatment and the possible risks attendant to the diagnosis or treatment, thereby failing to obtain a free and informed consent. As a legal result of lack of free and form consent, plaintiff suffered injuries as set forth above and below.
- 19. As a direct and legal result of aforesaid negligence, carelessness, and unskillfulness of defendants named in this cause of action, plaintiff suffered metastasis to the lung and liver. Said injuries include, but are not limited to, non-economic damages, pain, physical and emotional distress, and related physical damages all to her non-economic damages in an amount according to proof.
- As a further direct and legal result of aforesaid negligence, carelessness, and unskillfulness of defendants named in this cause of action, plaintiff has, and will in the future, incur economic damages, including toss of earnings and earning capacity, and past, present and future life care needs in an amount according to proof.

SECOND CAUSE OF ACTION

ON BEHALF OF PLAINTIFF, NICK GUILLERMO, FOR LOSS OF CONSORTIUM

- 21. Plaintiff, NICK GUILLERMO hereby repeats and realleges the First Cause of Action as if set forth in full herein.
- 22. At all times mentioned herein, plaintiffs, HOPE GUILLERMO and NICK GUILLERMO, were and are a married couple.

DEMAND FOR JURY TRIAL Plaintiffs hereby demand a jury trial. DATED: December 13, 2016 LAW OFFICES OF MARSHALL SILBERBERG Marshall Silberberg Susan N. Dahlin Attorneya for Bl Attorneys for Plaintiffs HOPE GUILLERMO and NICK GUILLERMO

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

Kaiser Foundation Hospitals; Southern California Permanente Medical Group; Kasier Foundation Health Plan, Inc.; Curtis Wong, D.O.; Mary Bull, M.D.;

Asthma Quddusi, M.D.; Teri Longacre, M.D. and Does 1 through 30, inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Hope Guillermo and Nick Guillermo

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be baid before the court will dismiss the case. [AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayana de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado innediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derechar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desectar el caso.

Tener que pagar en de defenso of the court is:

CASE NUMBER.

The name and address of the court is:	CASE NUMBER:	
(El nombre y dirección de la corte es):	(Número del Caso):	
Orange County Superior Court ()		
700 Civic Center Drive West	No description between the contract of the con	
Santa Ana, CA 92701		
Central		
The name, address, and telephone number of plaintiff's attorney, o	r plaintiff without an attorney, is:	
(El nombre, la dirección y el número de teléfono del abogado del d	lemandante, o del demandante que no	tiene abogado, es):
Marshall Silberberg 58303 (949) 718-0960 (949) 266-5811		
Law Offices of Marshall Silberberg		
3333 Michelson Drive, Suite 710 Irvine, CA 92612		
DATE:	Clerk, by	, Deputy
(Fecha)	(Secretario)	(Adjunto)
(For proof of service of this summons, use Proof of Service of Sum (Para prueba de entrega de esta citatión use el formulario Proof of	, , ,	

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[SEAL]	NOTICE TO THE PERSON SERVED: You are served
	1. as an individual defendant.
	2. as the person sued under the fictitious name of (specify):
	3. on behalf of (specify):
	under: CCP 416.10 (corporation) CCP 416.60 (minor)
	CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)

CCP 416.20 (defunct corporation)

CCP 416.40 (association or partnership)

other (specify):

CCP 416.70 (conservatee)
CCP 416.90 (authorized person)

by personal delivery on (date):

	CIVI-U IU				
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):	FOR COURT USE ONLY				
Marshall Silberberg 58303					
Law Offices of Marshall Silberberg					
3333 Michelson Drive, Suite 710					
Irvine, CA 92612					
TELEPHONE NO.: (949) 718-0960 FAX NO.: (949) 266-5811					
ATTORNEY FOR (Name): Plaintiffs					
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange					
STREET ADDRESS: 700 Civic Center Drive West					
MAILING ADDRESS:					
CITY AND ZIP CODE: Santa Ana, CA 92701					
BRANCH NAME: Central					
CASE NAME: Guillermo v. Kaiser, et al.					
CIVIL CASE COVER SHEET Complex Case Designation	CASE NUMBER:				
☐ Unlimited ☐ Limited ☐ Counter ☐ Joinder					
(Amount (Amount)	. JUDGE:				
demanded demanded is Filed with first appearance by defenda	int A (CA)				
exceeds \$25,000) \$25,000 or less) (Cal. Rules of Court, rule 3.402)	DEPT:				
Items 1–6 below must be completed (see instructions	s on page 2/\				
Check one box below for the case type that best describes this case:					
Auto Tort Contract Pi	rovisionally Complex Civil Litigation				
Auto (22) Breach of contract/warranty (06)	al. Rules of Court, rules 3.400–3.403)				
Uninsured motorist (46) Rule 3.740 collections (09)	Antitrust/Trade regulation (03)				
Other Pi/PD/WD (Personal Injury/Property Other collections (09)	Construction defect (10)				
Damage/Wrongful Death) Tort Insurance coverage (18)	Mass tort (40)				
Asbestos (04) Other contract (37)	Securities litigation (28)				
Product liability (24) Real Property	Environmental/Toxic tort (30)				
Medical malpractice (45) Eminent domain/Inverse	Insurance coverage claims arising from the				
Other PI/PD/WD (23) condemnation (14)	above listed provisionally complex case				
Non-PI/PD/WD (Other) Tort Wrongful eviction (33)	types (41)				
Business tort/unfair business practice (07) Other real property (26)	nforcement of Judgment				
Civil rights (08) Unlawful Detainer	Enforcement of judgment (20)				
Defamation (13) Commercial (31)	scellaneous Civil Complaint				
Fraud (16) Residential (32)	RICO (27)				
Intellectual property (19)	Other complaint (not specified above) (42)				
	scellaneous Civil Petition				
Other non-PI/PD/WD tort (35) Asset forfeiture (05)	Partnership and corporate governance (21)				
Employment Petition re: arbitration award (11)	Other petition (not specified above) (43)				
Wrongful termination (36) Writ of mandate (02)					
Other employment (15) Other judicial review (39)					
The same of the sa	of Court. If the case is complex, mark the				
factors requiring exceptional judicial management: a. Large number of separately represented parties d. Large number of	F				
	h related actions pending in one or more courts				
	s, states, or countries, or in a federal court				
<u></u>	judgment judicial supervision				
	atory or injunctive relief c. 🔲 punitive				
Number of causes of action (specify): 2					
5. This case 🔲 is 🛛 is not a class action suit.					
6. If there are any known related cases, file and serve a notice of related case. (You may	use form CM-015)				
Date: December 13, 2016	1				
Marshall Silberberg	www XIChe.				
	ATURE OF PARTY OR ATTORNEY FOR PARTY)				
	NAME OF FARTE OR ATTORNET FOR PARTY)				
NOTICE					
Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed					
under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result					
 in sanctions. File this cover sheet in addition to any cover sheet required by local court rule. 					
 If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all 					
other parties to the action or proceeding.					
 Unless this is a collections case under rule 3.740 or a complex case, this cover sheet visits in a collection of the cover sheet visits. 	will be used for statistical nurnoses only				
The state of the s	Page 1 of 2				