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7 **UNITED STATES DISTRICT COURT**  
8 **WESTERN DISTRICT OF WASHINGTON - TACOMA**  
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10 PENNY ALLEN,

11 Plaintiff.

Case No.

12  
13 v.

**COMPLAINT**

14 KAISER FOUNDATION HEALTH  
15 PLAN OF WASHINGTON, individually  
16 and as successor-in-interest to GROUP  
HEALTH OF WASHINGTON; and  
DOES 1 through 10, inclusive,

**JURY TRIAL DEMAND**

17 Defendants.  
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20 COMES NOW the Plaintiff, PENNY ALLEN, by and through her attorneys  
21 of record and states and alleges against the above-named Defendants as follows:

22 **I. PARTIES**

23 1. This is an action by Penny Allen (hereinafter "Allen" or "Plaintiff"),  
24 who is and at all relevant times was, resident of Kitsap County, Washington.

25 2. Plaintiff is informed and believes, and based thereon, alleges that  
26 defendant, KAISER FOUNDATION HEALTH PLAN

1 OF WASHINGTON, individually and successor-in-interest to GROUP HEALTH  
2 OF WASHINGTON (hereinafter "Kaiser"), is a corporation organized and  
3 existing under the laws of the State of California and is licensed to conduct  
4 business in the State of Washington. Kaiser is the successor-in-interest to GROUP  
5 HEALTH OF WASHINGTON (hereinafter "Group Health"), who was at all  
6 relevant times mentioned herein, a State of Washington corporation licensed to  
7 conduct business, and was conducting business, in the State of Washington,  
8 through its agents and/or employees. Kaiser continues the previous business  
9 activity of Group Health and has assumed all liabilities and obligations of Group  
10 Health.

11 3. Defendants and each of them are the subsidiaries, parent companies,  
12 holding companies, alter egos, or successors of each other and own or operate  
13 healthcare facilities in the State of Washington.

14 4. The true names and capacities, whether individual, corporate,  
15 associate or otherwise, of defendants sued in the Complaint under the fictitious  
16 names of DOES 1 through 10, inclusive, are unknown to Plaintiff who therefore  
17 sues defendants by such fictitious names. Plaintiff will amend this complaint to  
18 allege their true names and capacities when ascertained. Plaintiff is informed and  
19 believes, and thereon alleges, that each of the said fictitiously named defendants  
20 were the owner, operator, manager of the facility where the incident that is the  
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1 subject of this incident is alleged to have occurred, and are responsible in some  
2 manner for the occurrences herein alleged.

## 3 II. JURISDICTION & VENUE

4 5. Plaintiff brings her complaint under federal diversity jurisdiction, 28  
5 U.S.C. 1332, as the parties are completely diverse in citizenship and the amount in  
6 controversy exceeds \$75,000.00.

7 6. Venue lies in this Court pursuant to 28 U.S.C. Section 1391 because  
8 the alleged incident took place within this District at Silverdale Medical Center  
9 located at 10452 Silverdale Way N.W., Silverdale, WA (hereinafter "Subject  
10 Property"), where Plaintiff provided sign language interpretation as an  
11 independent contractor.

## 12 III. GENERAL FACTUAL ALLEGATIONS

13 7. On or about July 16, 2015, Plaintiff was working as an independent  
14 contractor at the Subject Property. Plaintiff was providing sign language  
15 interpretation for a physical therapy patient at the Subject Property.

16 8. On or before July 16, 2015, Defendant, through its employees and  
17 agents, did so negligently, carelessly and recklessly, own, lease, maintain or  
18 operate the Subject Property so as to create a dangerous condition. The dangerous  
19 condition was created by Defendant's failure to reasonably secure a large exercise  
20 ball to a shelf located several feet up a wall in the room at the Subject Property  
21 where Plaintiff was performing her sign language interpretation services on July  
22 16, 2015.

23 9. As a direct and proximate result of Defendant's negligent, careless  
24 and reckless failure to properly secure the large exercise ball, the exercise ball  
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1 rolled off the shelf striking Plaintiff in the back of the head causing the injuries  
2 and damages described more fully herein.

3 **IV. FIRST CAUSE OF ACTION**

4 **NEGLIGENCE – Premises Liability**

5 **(Against Defendants and Each of Them)**

6 10. Plaintiff re-alleges and incorporates by reference paragraphs 1  
7 through 9 of this Complaint as if fully alleged herein.

8 11. Plaintiff is informed and believes, and based thereon alleges, that  
9 Defendants, and each of them, did so negligently, carelessly, and unlawfully own,  
10 lease, and maintain the Subject Property so as to create an unreasonable risk of  
11 harm to Plaintiff. Defendants, and each of them, owed a duty to Plaintiff, as an  
12 invitee, to take reasonable steps to remedy or to provide adequate warning of any  
13 dangerous condition on the Subject Property. Defendants knew, or in the exercise  
14 of reasonable care should have known that failure to properly secure all objects  
15 stored on a shelving unit at the Subject Property constituted a dangerous condition  
16 and imposed an unreasonable risk of harm to Plaintiff and other invitees of the  
17 Subject Property. Defendants, and each of them, failed to take steps to either  
18 secure all objects or warn Plaintiff of the dangerous condition, all of which caused  
19 the exercise ball to roll off the shelf at the Subject Property and strike Plaintiff in  
20 the back of her head.

21 12. Defendant breached its duty in not securing the large exercise ball  
22 that fell from a shelf at the Subject Property striking Plaintiff in the back of the  
23 head.

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1           13. As a sole, direct and proximate result of the conduct of Defendants,  
2 and each of them, in the incident herein above described, Plaintiff, Penny Allen,  
3 was injured in her health, strength, and activity, sustaining injury to her body and  
4 shock and injury to her nervous system and person, all of which injuries have  
5 caused and continue to cause Plaintiff great mental, physical, and nervous pain and  
6 suffering. Plaintiff's injuries include, but are not limited to: injuries to her neck  
7 which required surgery, anxiety, emotional trauma, and shock and fright all to her  
8 general damage in a sum within the jurisdictional limits of this court.

9           14. As a further direct and proximate result of the incident as  
10 hereinabove set forth, Plaintiff, Penny Allen, has been unable to work and has  
11 experienced lost earning capacity. Plaintiff is informed and herein believes, and  
12 thereon alleges, that Plaintiff will continue to lose income in the future in an  
13 amount not currently known to her. When Plaintiff ascertains the total amount of  
14 lost earnings, and earnings which will be lost in the future, she will ask leave of  
15 this court to amend this complaint by setting forth such total amount.

16           15. As a direct and proximate result of the negligence of Defendants,  
17 and each of them, Plaintiff continues to be in pain and in treatment for her injuries.

#### 18                           **PRAYER FOR RELIEF**

19           WHEREFORE, Plaintiff, Penny Allen, respectfully requests that the Court  
20 issue a judgment granting her the following relief from Defendant:

- 21           1. For general damages in a sum within the jurisdictional limits  
22           according to proof;
  - 23           2. For the reasonable value of medical and hospital care and attention  
24           required and which will be required in the future;
  - 25           3. For all costs of suit; and
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1           4.     For such other and further relief as the Court may deem just and  
2                 proper.  
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4                                 **JURY TRIAL DEMAND**

5           Plaintiff requests a jury trial on all questions of fact raised by this  
6     Complaint.  
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8                                 DATED this 19th day of September, 2017.  
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10                                \_\_\_\_\_  
11                                Kevin P. Smith, WSBA no. 48578  
12                                Attorney for Plaintiff  
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